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FROM

*Mrs. Edward Channing*











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AN *Wm. Torrey*

EDWARD CHANNING, LL.D.  
CAMBRIDGE, MASS.

# Analytical Digest

OF THE

## LAWS OF THE UNITED STATES

FROM THE

COMMENCEMENT OF THE THIRTY-FIFTH TO THE END  
OF THE THIRTY-SEVENTH CONGRESS.

1857-1863.

COMPLETING

BRIGHTLY'S UNITED STATES DIGEST

TO THE PRESENT TIME.

BY

FREDERICK C. BRIGHTLY, ESQ.,

OF THE PHILADELPHIA BAR; AUTHOR OF "THE LAW OF COSTS," "EQUITY JURISPRUDENCE," "THE UNITED STATES DIGEST," ETC.; EDITOR OF  
"PURDON'S DIGEST OF THE LAWS OF PENNSYLVANIA," ETC.

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*Mrs. Edward Channing*

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FREDERICK C. BRIGHTLY,

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# A DIGEST

OF THE

## LAWS OF THE UNITED STATES.

1857-63.

### Accounts.

1. Accounts of receiving officers to be settled monthly. Proceedings in case of default.

1. Any officer or agent of the United States who shall receive public money which he is not authorized to retain as salary, pay or emolument, shall render his accounts monthly, instead of quarterly, as heretofore; and such accounts, with the vouchers necessary to the correct and prompt settlement thereof, shall be rendered direct to the proper accounting officer of the treasury, and be mailed or otherwise forwarded to its proper address, within ten days after the expiration of each successive month. And in case of the non-receipt at the treasury of any accounts within a reasonable and proper time thereafter, the officer whose accounts are in default shall be required to furnish satisfactory evidence of having complied with the provisions of this act; and for any default on his part, the delinquent officer shall be deemed a defaulter, and be subject to all the penalties prescribed by the 16th section of the act of August 6th 1846, "to provide for the better organization of the treasury, and for the collection, safe-keeping, transfer and disbursement of the public revenue:" (a) *Provided*, That the secretary of the treasury may, if in his opinion the circumstances of the case justify and require it, extend the time hereinbefore prescribed for the rendition of accounts: *And provided further*, That nothing herein contained shall be construed to restrain the heads of any of the departments from requiring such other returns or reports from the officer or agent, subject to the control of such heads of departments, as the public interests may require.

17 July 1862 § 1.  
12 Stat. 593.

Accounts of receiving officers to be settled, monthly.

Proceedings in case of default.

(a) Ante 887, pl. 57.

### Acts of Congress.

1. Number of pamphlet laws to be delivered to the executive departments.  
2. Distribution of copies in the congressional library.

1. In lieu of the number of copies of the pamphlet laws directed by the act of 20th April 1818, (a) to be delivered to the officers of the executive departments, there shall hereafter be delivered to the head of each department, including the attorney-general, for the use of those officers, a number equal to the number of copies which they are or may be entitled to receive of the Statutes at Large, published by Little and Brown, under the provisions of the act of 8th August 1846. (b)

2 March 1861 § 8.  
12 Stat. 245.

Number of pamphlet laws to be delivered to the executive departments.

2. The number of pamphlet laws directed to be placed in the library of congress by the act of 20th of April 1818, (c) and of the Statutes at Large, published by Little and Brown, directed to be placed in the said library, by the act of 8th August 1846, (d) shall be distributed by the secretary of the interior, agreeably to the provisions of the 11th section of the act of 5th February 1859, (e) excepting twelve copies to be sent to the library of congress for the use of the supreme court during its sessions; and two copies for use in said library.

Ibid. § 8.

Distribution of copies in the congressional library.

(a) Ante 21, pl. 4.  
(b) Ante 23, pl. 15.

(c) Ante 21, pl. 5.  
(d) Ante 23, pl. 15.

(e) See tit. "Library," pl. 2.

## Admiralty.

The jurisdiction of the district courts, in cases of admiralty, does not rest upon the act of 1845, but upon the constitution of the United States. It is not limited to tide waters, but embraces lakes and navigable rivers, through which commerce is carried on between different states, or with a foreign nation. *Franconet v. The Propeller F. W. Backus*, 1 Newb. 1. *Parnlee v. The Charles Mears*, *Ibid.* 197. *Williams v. The Jenny Lind*, *Ibid.* 443.

The act 20 July 1790, § 6 (26, pl. 7), confers power on the judge or justice to issue summary process for seamen's wages; and the court will not look beyond the certificate of such officer for the authority of the clerk to issue the process prescribed; but such certificate must show on its face that the commissioner had authority to act. *Kief v. The Steamboat London*, 1 Newb. 6.

The act of 1845 did not enlarge the jurisdiction of the federal courts as to questions of admiralty. The term "navigable waters" used therein, is not to be understood in the same sense as "natural streams;" but must be held to include an artificial communication such as the Welland Canal. *Scott v. The Young America*, 1 Newb. 101.

The admiralty jurisdiction of the district court extends to all the large, public, navigable rivers and lakes of the United States. *McGinnis v. The Pontiac*, 1 Newb. 130. *Eads v. The Steamboat H. D. Bacon*, *Ibid.* 274.

The district courts have a general admiralty jurisdiction *in rem*, in suits brought by material men against foreign ships; and in cases of domestic ships, where the local law gives a lien. *Wick v. The Samuel Strong*, 1 Newb. 187.

When a libel is filed to enforce a lien upon a domestic vessel, it must be distinctly set forth in the libel, by what municipal regulation or state law, such lien is conferred. *Parnlee v. The Charles Mears*, 1 Newb. 197.

When a libel is filed to enforce a lien under the general maritime law, such facts must be set forth in the libel, which, if proven, would satisfy the court, that the vessel was a foreign one, at the time the lien attached. *Ibid.*

When the general maritime law gives the mechanic or materialman a lien for labor and materials, in the building of a vessel, the admiralty has jurisdiction to enforce it, by a process *in rem*, even before the vessel is launched or employed in navigation. *Ibid.*

The jurisdiction of the district courts, under the act of 1789, embraces all cases of a maritime nature, whether they be particularly of maritime cognisance or not. They are not embarrassed by the restraining acts of Rich. II. and Hen. IV., but are governed by the principles of maritime law recognised in maritime nations of continental Europe. *Kynoch v. The Propeller S. C. Ives*, 1 Newb. 206.

The admiralty and maritime jurisdiction of the United States *in rem*, is exclusively in the federal courts. *Ashbrook v. The Golden Gate*, 1 Newb. 296; *contra*, *Taylor v. The Columbia*, 5 Cal. 268.

A court of admiralty has no jurisdiction to try questions of equitable title to vessels, or to enforce the equities between mortgage and mortgagee of vessels; it can only pass upon the legal title. *The William D. Rice*, 20 Law Rep. 501.

The court affords a remedy against domestic vessels for labor, supplies, &c., furnished, only where the vessel is subject, by the

local law, to a lien therefor; and the privilege is enforced, subject to every qualification or limitation attached to it by that law. *The Alida*, 1 Abbott 165. *The Infanta*, *Ibid.* 213.

The admiralty jurisdiction does not extend to cases where a lien is claimed by the builders of a vessel, for work done, and materials provided, in its construction. *People's Ferry Co. v. Beers*, 20 How. 393. Whether the district courts can enforce a lien in such cases, given by the state law, the supreme court do not decide. *Ibid.* Such jurisdiction denied in *The Coernine*, 21 Law Rep. 343. And see *Pratt v. Reed*, 19 How. 359; *contra*, *The Richard Busteed*, 21 Law Rep. 601.

The admiralty jurisdiction extends to cases of collision upon navigable waters, although the place of such collision be within the body of a county, and above the flux and reflux of the tide. *Jackson v. The Magnolia*, 20 How. 296.

The district courts exercise this jurisdiction over fresh-water rivers navigable from the sea, by virtue of the act of 1789, and not by virtue of the act of 1845, which extends their jurisdiction to the great lakes and waters "not navigable from the sea." *Ibid.*

The admiralty can acquire no jurisdiction by the seizure of a vessel, already in the possession of the sheriff under valid state process. *Taylor v. Carryl*, 20 How. 584.

Services rendered on board a vessel of 35 tons, engaged in transporting stone and lumber between Quincy and Boston, are maritime in their character, and within the jurisdiction of the admiralty. *Derry v. Hersey*, 21 Law Rep. 473.

Full costs are to be taxed in admiralty causes, notwithstanding the decree be for less than \$100. The act of 1847 is in this respect repealed by the fee bill of 1853. *Ibid.*

Under the act of 1846, a libel cannot be sustained on a bill of lading for the carriage of goods between two ports of the same state, though in a general ship whose principal voyage is between ports of different states. *Allen v. The Fashion*, 21 How. 244. Nor for supplies furnished to a vessel engaged in a trade between ports within the same state. *Maguire v. C. rd*, *Ibid.* 248.

On the 1st May 1857, a new rule of the supreme court went into effect, by which the federal courts would not, after that time, enforce any domestic lien given by state statute. *Tupper v. The St. Lawrence*, 16 Leg. Int. 317. See *Fox v. Revenue Cutter*, 8 Am. L. R. 463-4.

The admiralty have no jurisdiction *in rem*, on a maritime contract, unless a lien be annexed to it by law. *Vandewater v. The Yankee Blade*, 1 McAllister 9.

The admiralty and maritime jurisdiction given to the federal courts over the western lakes and rivers, by the constitution and the act of 1789, is not in any way restricted by the act of 1845. *Fox v. Revenue Cutter*, 8 Am. L. R. 469.

A contract for building a ship, or furnishing materials therefor, is not a maritime contract; and a state law, which creates a lien in such a case, cannot confer jurisdiction on the federal courts. *Roach v. Chapman*, 22 How. 129.

The admiralty has jurisdiction to decree the bounty allowed to persons employed in the cod fishery; and a claim for a proportion of the bounty may be united with one for an account of the number of fish taken during the voyage. *The Lucy Anne*, 23 Law Rep. 545.

## Agriculture.

1. Department of agriculture established.

2. Appointment of commissioner. Salary.

3. Duties of commissioner. Annual report. Special reports.

15 May 1862 § 1.  
12 Stat. 387.

Department of  
agriculture es-  
tablished.

*Ibid.* § 2.

Appointment of  
commissioner.

Salary.

*Ibid.* § 3.

Duties of com-  
missioner.

1. There is hereby established at the seat of government of the United States a department of agriculture, the general designs and duties of which shall be, to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of that word, and to procure, propagate and distribute among the people new and valuable seeds and plants.

2. There shall be appointed by the president, by and with the advice and consent of the senate, a "commissioner of agriculture," who shall be the chief executive officer of the department of agriculture; who shall hold his office by a tenure similar to that of other civil officers appointed by the president, and who shall receive for his compensation a salary of three thousand dollars per annum.

3. It shall be the duty of the commissioner of agriculture to acquire and preserve in his department all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments (accurate records of which experiments shall be kept in his office), by the collection of statistics, and by any other appropriate means within his power; to collect, as he may be able, new and valuable seeds and plants; to test, by cultivation, the value of such of them

Franking privilege.

4. Appointment of chief clerk and other officers. Oath of office. Bonds.

as may require such tests; to propagate such as may be worthy of propagation, and to distribute them among agriculturists. He shall annually make a general report in writing of his acts to the president and to congress, in which he may recommend the publication of papers forming parts of or accompanying his report, which report shall also contain an account of all moneys received and expended by him. He shall also make special reports on particular subjects, whenever required to do so by the president or either house of congress, or when he shall think the subject in his charge requires it. He shall receive and have charge of all the property of the agricultural division of the patent office in the department of the interior, including the fixtures and property of the propagating garden. He shall direct and superintend the expenditure of all money appropriated by congress to the department, and render accounts thereof, and also of all money heretofore appropriated for agriculture and remaining unexpended. And said commissioner may send and receive through the mails, free of charge, all communications and other matter pertaining to the business of his department, not exceeding in weight thirty-two ounces.

15 May 1862.  
Annual report.  
Special reports.

Franking privilege.

4. The commissioner of agriculture shall appoint a chief clerk, with a salary of two thousand dollars, who in all cases during the necessary absence of the commissioner, or when the said principal office shall become vacant, shall perform the duties of commissioner, and he shall appoint such other employees as congress may from time to time provide, with salaries corresponding to the salaries of similar officers in other departments of the government; and he shall, as congress may from time to time provide, employ other persons for such time as their services may be needed, including chemists, botanists, entomologists and other persons skilled in the natural sciences pertaining to agriculture. And the said commissioner, and every other person to be appointed in the said department, shall, before he enters upon the duties of his office or appointment, make oath or affirmation truly and faithfully to execute the trust committed to him. And the said commissioner and the chief clerk shall also, before entering upon their duties, severally give bonds to the treasurer of the United States, the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditional to render a true and faithful account to him or his successor in office, quarter-yearly accounts of all moneys which shall be by them received by virtue of the said office, with sureties to be approved as sufficient by the solicitor of the treasury; which bonds shall be filed in the office of the first comptroller of the treasury, to be by him put in suit upon any breach of the conditions thereof.

Ibid. § 4.  
Appointment of chief clerk, and other officers.

Oath of office.

Bonds.

## Alabama.

### I. DISTRICT COURTS.

1. Terms of northern district.
2. Special terms. Notice.

### II. COLLECTION DISTRICTS.

3. Selma annexed to district of Mobile.

### I. DISTRICT COURTS.

1. Hereafter the terms of the district court of the United States for the northern district of Alabama shall commence on the third Mondays of May and November, respectively, in every year, instead of the times now provided by law.

9 June 1860 § 1.  
12 Stat. 28.

Terms of northern district.

Ibid. § 2.

Special terms.

Notice.

2. The said court in term time, or the judge of said court in vacation, may order a special term of said court to be held at such time as the court or judge may appoint. Notice of the time of holding such special term shall be given by the clerk of the court, by advertisement, in some newspaper published in the city of Huntsville, at least once a week for four weeks next preceding the time appointed for holding such special term.

### II. COLLECTION DISTRICTS.

3. That Selma in the state of Alabama, which was constituted a port of delivery within the collection district of New Orleans by the act of 3d March 1857, chapter 102, be detached from that district, and be made a port of delivery within the collection district of Mobile.

27 Jan. 1858 § 1.  
11 Stat. 260.

Selma annexed to district of Mobile.



## Aliens.

1. Aliens honorably discharged from the military service, to be naturalized on proof of one year's residence.

17 July 1862 § 21.  
12 Stat. 597.

Aliens honorably discharged from the military service, to be naturalized on proof of one year's residence.

1. Any alien, of the age of twenty-one years and upwards, who has enlisted or shall enlist in the armies of the United States, either the regular or the volunteer forces, and has been or shall be hereafter honorably discharged, may be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become a citizen of the United States, and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character as is now provided by law, be satisfied by competent proof of such person having been honorably discharged from the service of the United States as aforesaid.

A state law restricting its courts and their clerks from receiving applications, or entertaining jurisdiction for the naturalization of aliens, under the acts of congress, is not contrary to the constitution of the United States. *Stephens' Case*, 4 Gray 559.

The process of naturalization is a judicial act which congress cannot authoritatively confer on a state court; but it may be exercised by the state courts if not prohibited by the exclusive jurisdiction of the courts of the United States. They derive no new judicial power from the act of congress, but only exercise a power already inherent in them as courts having common law jurisdiction. *Morgan v. Dudley*, 13 B. Monroe 693; reversing s. c. 20 Law Rep. 871. See *Ramsden's Case*, 13 How. Pr. Rep. (N. Y.) 429. *Rump v. Commonwealth*, 6 Casey 475.

The state courts, in entertaining jurisdiction of cases of naturalization, act exclusively under the laws of the United States, and are to be deemed, *quoad hoc*, courts of the United States. *People v. Sweetman*, 3 Parker C. B. 358.

Wilful false swearing, by a person giving material testimony in a naturalization proceeding, before a state court, is an offence against the laws of the United States, and punishable only in the federal courts. *Ibid.*: contra, *Rump v. Commonwealth*, 6 Casey 475.

Application for naturalization must be made in open court, and evidence of residence, &c., must be taken by the oral examination of witnesses, and not by previously prepared affidavits. *Ibid.*

Under the acts of congress, children born abroad, not only of citizens by birth, but also of naturalized citizens, are citizens of the United States. *Sasportas v. De la Motta*, 10 Richardson Eq. R. 58.

The allegiance of a naturalized citizen cannot be transferred to another government, by a treaty ceding the territory in which he is domiciled, as in case of a natural born citizen; by such cession he is released from his statutory allegiance and remitted to his original status. *Tobin v. Walkinshaw*, 1 McAllister 186.

## Ambassadors and Public Ministers.

[See CONSULS.]

1. Mission to Sardinia.
2. Minister and secretary of legation.

16 June 1860 § 1.  
12 Stat. 40.

Mission to Sardinia.

*Ibid.* § 2.

Minister and secretary of legation

5 June 1862 § 1.  
12 Stat. 421.

Commissioners to Hayti and Liberia.

Compensation.

23 March 1863 § 23.  
12 Stat. 754.

To whom passports may be granted.

3. Commissioners to Hayti and Liberia.
4. To whom passports may be granted.

1. That from and after the 30th of June next, the kingdom of Sardinia be ranked in schedule A of the consular and diplomatic bill, approved August 18th 1856, with Russia, Spain, Austria, Brazil, Mexico and China.

2. That the president may, by and with the advice and consent of the senate, appoint a representative to the kingdom of Sardinia of the grade of envoy extraordinary and minister plenipotentiary, who shall receive for his services an annual compensation of twelve thousand dollars; and a secretary of legation who shall receive for his services an annual compensation of one thousand eight hundred dollars.

3. That the president of the United States be, and he hereby is authorized, by and with the advice and consent of the senate, to appoint diplomatic representatives of the United States to the republics of Hayti and Liberia respectively. Each of the said representatives so appointed shall be accredited as commissioner and consul-general, and shall receive the compensation of commissioners, according to the act of congress, approved August 18th 1856: (a) *Provided*, That the annual compensation of the representative at Liberia shall not exceed four thousand dollars.

4. That so much of the act approved the 18th August 1856, (b) entitled "An act to regulate the diplomatic and consular systems of the United States," as prohibits the granting of passports to any other than citizens of the United States, shall be and is hereby repealed, so far as that prohibition may embrace any class of persons liable to military duty by the laws of the United States.

(a) Ante 37, pl. 1.

(b) Ante 39, pl. 11.

## Appropriations.

1. Repeal of act 26 August 1842, § 25.

23 June 1860 § 2.  
12 Stat. 103.

Repeal of act 26 August 1842 § 25.

1. The 23d section of the act entitled "An act legalizing and making appropriations for such necessary objects as have usually been included in the general appropriation bills without authority of law, and to fix and provide for certain incidental expenses of the departments and offices of the government, and for other purposes," approved 26th August 1842, (a) is hereby repealed.

(a) Ante 44, pl. 12.

- Ibid. § 3.  
Slavery not to be  
recognised.

11 July 1862 § 1.  
12 Stat. 537.

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Additional  
arsenals.

# Army of the United States.

## I. ORGANIZATION OF THE ARMY.

1. Increase of the army. Organization of infantry regiments.
- Cavalry. Artillery.
2. Field and staff officers.
3. General officers and aids.
4. Pay and allowances. Regimental bands.
5. Term of service. Bounties.
6. When to be reduced to peace standard.
7. Mode of reduction.
8. Enlistments. Regular officers may be detailed for duty in volunteer regiments.
9. Additional inspectors-general. Surgeons and assistants. Adjutant-general's department. Subsistence department.
10. Additional inspectors-general.
11. Additional inspectors-general.
12. Army corps may be established.
13. Organization of army corps.

## II. CAVALRY.

14. Regiments of cavalry organized.
15. Organization of cavalry regiments.
16. Assistant surgeons. Number of privates.
17. Pay of certain grades. Certain grades abolished, and others established.

## III. ENGINEERS.

18. Rank and pay of superintendent, &c., of military academy.
19. Additional first and second lieutenants.
20. Additional companies of engineer soldiers.
21. Cadets not to be reappointed except on recommendation of the academic board. Oath of cadets.
22. Additional officers.
23. Company of topographical engineers.
24. Additional officers.
25. Topographical engineers.
26. Organization of engineer corps.
27. Rank.
28. Promotions.

## IV. ORDNANCE DEPARTMENT.

29. Increase of ordnance department. Appointments.
30. Ordnance officers to be superintendents of armories.
31. Rank and pay of enlisted men.
32. Additional officers. Examination for appointment or promotion.

## V. QUARTERMASTER'S DEPARTMENT.

33. Construction of permanent barracks.
34. Additional officers. Promotions. Wagoners.
35. Military storekeepers.

## VI. COMMISSARY DEPARTMENT.

36. Additional officers in the commissary department.

## VII. STAFF OFFICERS.

37. Signal officer.
38. Additional officers in adjutant-general's department. Rank.

## VIII. SIGNAL CORPS.

39. Signal corps to be organized.
40. To be subject to the articles of war.
41. Clerks.
42. Appointments.

## IX. MEDICAL DEPARTMENT.

43. Additional surgeons and assistants.
44. Medical cadets to be appointed. Rank and pay. Qualifications. Term of service.
45. Female nurses may be employed in hospitals.
46. Temporary increase of medical department. Rations of cadets.
47. Rank and pay of surgeon-general, assistant surgeon-general, and medical inspector-general.
48. Medical inspectors.
49. Appointments.
50. Duties of medical purveyors.
51. When medical officers may be retired.
52. Limitation of act.
53. Medical inspectors may discharge enlisted men for permanent physical disability. Certificate.
54. Medical storekeepers. Pay. Bonds.
55. Amount of bonds.
56. Additional medical inspectors.
57. Discharge of soldiers for disability.

## X. CHAPLAINS.

58. Regimental chaplains. Qualifications.
59. Hospital chaplains.
60. Qualifications of chaplains.
61. Compensation. Inquiry into qualification of chaplains. Residence at posts.

## XI. BREVET RANK.

62. President may confer brevet rank for distinguished services.

## XII. ENLISTMENTS.

63. Who may be enlisted. Age and size. Minors not to be enlisted without consent of parents. Penalty for so doing.
64. Who may administer oath to recruits.

65. Certain bounties for re-enlistments abolished.

66. Who may administer oaths.
67. Enlistment of minors, over eighteen years, authorized.
68. Premium for recruits. Advance pay.
69. Volunteers not to be enlisted.

## XIII. ARTICLES OF WAR.

70. Desertion defined.
71. Flogging abolished.
72. Who may appoint general courts-martial in time of war. Their powers.
73. Punishment of spies.
74. Forcing a safeguard.
75. Fugitives from labor not to be returned by military officers.
76. When prisoners may be sentenced to imprisonment in the penitentiary.
77. Others to be discharged.
78. Mode of discharge.
79. Sentences to the penitentiary.
80. Arrest and trial of officers.
81. Judge-advocate general. When president to approve sentence.
82. Judge-advocates.
83. When field officers may punish. Approval of sentence.
84. Approval of sentences of spies and deserters.
85. Officers may be reduced to the ranks.
86. Return of soldiers absent without leave.
87. When depositions may be read before courts martial.
88. Appointment of reporter.
89. Continuances regulated.
90. Punishment of certain crimes in time of war.
91. Punishment of spies in time of rebellion.
92. Power to compel attendance of witnesses.

## XIV. PAY AND SUBSISTENCE.

93. When officers not to be allowed mileage.
94. Sugar and coffee ration.
95. Increase of the ration during the war.
96. Allowance for hospitals.
97. Double rations not to be allowed to commandants of posts.
98. Officers absent more than six months not to receive allowances.
99. Pay of privates.
100. Commutation of sugar and coffee ration.
101. Forage to be drawn in kind. Emoluments of mounted officers.
102. Forage of mounted officers.
103. Pay, &c., of soldiers employed as servants to be credited on pay-roll.
104. Act of 1861 not to increase pay of officers. Compensation of quartermaster sergeants.
105. Officers' mileage.
106. Pay, &c., of officers on leave.
107. Pepper ration.

## XV. COMPENSATION FOR PROPERTY DESTROYED.

108. Act of 1849 to include steamboats and locomotives.

## XVI. RETIRED LIST.

109. Certain officers may be retired at their own request.
110. What officers may be placed on the retired list. Pay and allowances. Limitation of number.
111. Board for examination of disabled officers. Report. Members to be sworn. Hearing.
112. Rights and duties of retired officers.
113. To what duties they may be assigned.
114. Certain officers may be retired on full pay.

## XVII. GENERAL PROVISIONS.

115. Regulation of sutlers.
116. Dismissal of officers.
117. Employment of negroes.
118. Pay and rations.
119. Command between officers of the same grade.
120. Medals of honor.
121. Extra clothing to sick and wounded soldiers.
122. Clothing, arms, &c., in possession of others than soldiers to be seized.
123. Penalty for enticing soldiers to desert. For purchasing arms, &c. For receiving deserters on board of ship.
124. Furloughs.
125. Details for special service.
126. Advance bounty to be credited to paymasters. To be charged to enlisted men.
127. Supervision of cooking.
128. Details for cooking.
129. Enlistment of negro cooks.

## XVIII. VOLUNTEERS.

130. Services of volunteers accepted. Term of service. Duties of the president.
131. To be subject to articles of war. Organization of regiments.
132. Divisions and brigades.
133. Major-generals and brigadier-generals. May be selected from the army. Commissioning of field, staff, and company officers.

134. Pay and allowances. Commutation of subsistence, forage, and travel. Bounty on discharge.
135. Provision for volunteers wounded or disabled in the service.
136. Pay of musicians.
137. Wagoners, saddlers and non commissioned staff officers.
138. Chaplains.
139. Board for examination of commissioned officers.
140. Soldiers' letters.
141. Allotments to families of soldiers.
142. Additional volunteer force authorized.
143. To be mustered in for the war.
144. General officers.
145. Volunteers may be accepted without previous proclamation.
146. Appointment of commissioned officers to fill vacancies.
147. Commissioners to procure allotments of pay for families of volunteers. Payment to be made on such allotments.
148. Commissioners to receive no compensation.
149. Board to prepare list of articles for sutlers. Liquors not to be sold.
150. Prices to be fixed by another board.
151. Selection of sutlers.
152. Lien on soldiers' pay. Limitation. Penalty for allowing a greater amount. Claim for greater amount to be invalid. Copy of act to be posted.
153. Inspection of place of sale and articles.
154. Business of sutlers regulated.
155. Penalty for violation.
156. Payment of company officers.
157. Additional medical officers. Qualifications. Promotions.
158. Surgeons of volunteers.
159. Assistant surgeons.
160. Bounty on enlistment.
161. Brigade bands.
162. Allowance for risk of horses abolished.

163. Pay and emoluments of engineers.
164. Additional volunteer force. Bounty.
165. Term of service.
166. Increase of general officers.
167. Bounty for re-enlistments.
168. Consolidation of companies.
169. No officers to be appointed to regiments reduced below the minimum.
170. Bounty on re-enlistment in certain cases.
171. Bounty to wounded soldiers on discharge.

## XIX. CONSCRIPTION.

172. What persons to be liable to conscription.
173. Who to be exempt.
174. Classification.
175. Enrolment districts.
176. Provost-marshals. Provost-marshal general.
177. Duties of provost-marshal general.
178. Duties of provost-marshals.
179. Boards of enrolment.
180. Sub-districts. Enrolling officers.
181. Enrolment.
182. Persons enrolled to be liable to military duty.
183. How draft to be made. Notice. Apportionment.
184. Substitutes may be furnished. Or payment in lieu of service. Absentees to be deemed deserters.
185. Inspection of conscripts.
186. Penalty for frauds by inspecting surgeons.
187. Discharge of surplus men. Expenses.
188. Certificates of exemption. Pay of substitutes.
189. Penalty for resisting the draft, &c.
190. Powers of the president.
191. Assignment of conscripts to duty.
192. Pay of members of enrolling board.

## I. ORGANIZATION OF THE ARMY.

1. There shall be added to the regular army, as now authorized by law, nine regiments of infantry, one regiment of cavalry and one regiment of artillery; each regiment of infantry to consist of not less than two nor more than three battalions, as the exigencies of the public service may, in the opinion of the president of the United States, demand; each battalion to consist of eight companies; each company to consist of one captain, one first and one second lieutenant, one first sergeant, four sergeants, eight corporals, two musicians and as many privates, not exceeding eighty-two, as the president of the United States may, according to the requirements of military service, direct. The regiment of cavalry hereby authorized shall consist of not more than three battalions of not more than two squadrons each; and each squadron shall consist of two companies, each company to be composed of one captain, one first and one second lieutenant, one first sergeant, one quartermaster-sergeant, four sergeants, eight corporals, two musicians, two farriers, one saddler, one wagoner, and as many privates, not exceeding seventy-two, as the president of the United States may, according to the requirements of the military service, direct. The regiment of artillery hereby authorized shall consist of not more than twelve batteries; and each battery shall consist of one captain, one first and one second lieutenant, one first sergeant, one quartermaster-sergeant, four sergeants, eight corporals, two musicians, two artificers, one wagoner, and as many privates, not exceeding one hundred and twenty-two, as the president of the United States may, according to the requirements of the military service, direct. And there may be added to the aforesaid battery organization, at the discretion of the president, having due regard to the public necessities and means, one first and one second lieutenant, two sergeants and four corporals.

2. The field and staff commissioned and non-commissioned officers of the regiments hereinbefore authorized shall be as follows: To each regiment of infantry, one colonel, one lieutenant-colonel, one regimental adjutant, one regimental quartermaster and commissary, one drum-major, or leader of the band, and two principal musicians; and to each battalion of infantry, one major, one battalion adjutant, one battalion quartermaster and commissary, one sergeant-major, one quartermaster-sergeant, one commissary-sergeant and one hospital steward; the regimental and battalion adjutants, and quartermasters and commissaries, to be taken from the lieutenants of the regiments and battalions, respectively: To the regiment of cavalry, one colonel, one lieutenant-colonel, one regimental adjutant, one regimental quartermaster and commissary and two chief buglers; and to each battalion of cavalry, one major, one battalion adjutant, one battalion quartermaster and commissary, one sergeant-major, one quartermaster-sergeant, one commissary-sergeant, one hospital steward, one saddler-sergeant, and one veterinary-sergeant; the regimental adjutant and the regimental and battalion quartermasters and commissaries to be taken from the lieutenants of the regiments and battalions, respectively: To the regiment of artillery, one colonel, one lieutenant-colonel, one major to every four batteries, one adjutant, one regimental quartermaster and commissary, to be taken from the lieutenants of the regiment, one sergeant-major, one quartermaster-sergeant, one commissary-sergeant, two principal musicians and one hospital steward;

29 July 1861 § 1.  
12 Stat. 279.

Increase of the  
army.

Organization of  
infantry  
regiments.

Cavalry.

Artillery.

Ibid. § 2.

Field and staff  
officers.

Infantry.

Cavalry.

Artillery.

29 July 1861.	and the bands of the regular regiments shall consist of not more than twenty-four musicians for each regiment of infantry and artillery, and sixteen musicians for each regiment of mounted troops.
<u>Ibid. § 3.</u>	3. There shall be added to the army of the United States the following general officers, namely, four major-generals, with three aides-de-camp each, to be taken from captains or lieutenants of the army, and six brigadier-generals, with two aides-de-camp each, to be taken from the lieutenants of the army.
General officers and aides-de-camp.	
<u>Ibid. § 4.</u>	4. The officers and enlisted men raised in pursuance of the foregoing sections shall receive the same pay, emoluments and allowances, and be on the same footing, in every respect, with those of corresponding grades and corps now in the regular service. The regimental bands will be paid as follows: one-fourth of each, the pay and allowances of sergeants of engineer soldiers; one-fourth, those of corporals of engineer soldiers; and one-half, those of engineer soldiers of the first class. The drum-major, or leader of the band, the pay and emoluments of a second lieutenant of infantry. The saddler-sergeants, veterinary-sergeants, company quartermaster-sergeants and drum-majors, will receive the pay and allowances of sergeants of cavalry. The battalion adjutant and battalion quartermasters and commissaries will receive the emoluments now provided by law for regimental adjutants.
Pay and allowances. Regimental bands.	
<u>Ibid. § 5.</u>	5. The term of enlistments made and to be made in the years 1861 and 1862, in the regular army, including the force authorized by this act, shall be for the period of three years, and those to be made after January 1, 1863, shall be for the term of five years, as at present authorized, and the men enlisted in the regular forces after the first day of July 1861 shall be entitled to the same bounties in every respect as those allowed or to be allowed to the men of the volunteer forces.(a)
Term of service.	
Bounties.	
<u>Ibid. § 6.</u>	6. The increase of the military establishment created or authorized by this act is declared to be for service during the existing insurrection and rebellion; and within one year after the constitutional authority of the government of the United States shall be re-established, and organized resistance to such authority shall no longer exist, the military establishment may be reduced to a number not exceeding twenty-five thousand men, unless otherwise ordered by congress.
When army to be reduced to peace standard.	
<u>Ibid. § 7.</u>	7. The president of the United States shall cause regiments, battalions and companies to be disbanded, and officers, non-commissioned officers, musicians and privates to be discharged, so as to reduce the military establishment as is provided by the preceding section: <i>Provided</i> , That all of the officers of the regular army who have been or may be detached or assigned to duty for service in any other regiment or corps shall resume their positions in the regular army, and shall be entitled to the same rank, promotion, and emoluments as if they had continued to serve in their own regiments or corps.'
Mode of reduction.	
<u>Ibid. § 8.</u>	8. The enlistments for the regiments authorized by this act shall be in charge of the officers detailed for that purpose who are appointed to said regiments from civil life, and in the mean time the officers appointed to the same from the regular army shall be detailed by the commanding general to such service in the volunteer regiments now in the field as will in his judgment give them the greatest military instruction and efficiency; and the commanding general may in his discretion employ said officers with any part of the regular forces now in the field until the regiments authorized by this act shall have been fully recruited, and detail any of the officers now in the regular army to service with the volunteer regiments now in the field, or which may hereafter be called out, with such rank as may be offered them in said volunteer regiments, for the purpose of imparting to them military instruction and efficiency.
Regular officers may be detailed for duty in volunteer regiments.	
3 Aug. 1861 § 2. 12 Stat. 287.	9. That the president be and is hereby authorized to appoint, by and with the advice and consent of the senate, in addition to the number authorized by existing laws and in accordance with existing regulations, five assistant inspector-generals, with the rank and pay of majors of cavalry, ten surgeons and twenty assistant surgeons, to have the pay, rank and allowances, and perform the duties of similar officers in the present military establishment. That hereafter the adjutant-general's department shall consist of the following officers, namely: one adjutant-general, with the rank, pay and emoluments of a brigadier-general; one assistant adjutant-general, with the rank, pay and emoluments of a colonel of cavalry; two assistant adjutant-generals, with the rank, pay and emoluments each of a lieutenant-colonel of cavalry; four assistant adjutant-generals, with the rank, pay and emoluments each of a major of cavalry; and twelve assistant adjutant-generals, with the rank, pay and emoluments each of a captain of cavalry; and that there shall be added to the subsistence department four commissaries of subsistence, each with the rank, pay and emoluments of a major of cavalry; and
Additional inspectors-general. Surgeons and assistants. Adjutant-general's department.	
Subsistence department.	

(a) See infra 134, 160. The act 11 July 1862 § 3, 12 Stat. 535, also secures to the widow and heirs of soldiers who enlisted after the 1st July 1861 and during 1862, the same bounties as are secured to the widows and heirs of volunteers by the act 22 July 1861, § 6, infra 136.

eight commissaries of subsistence, with the rank, pay and emoluments each of a captain of cavalry, and to be taken from the line of the army, either of the volunteers or regular army.

3 Aug. 1861.

10. The president of the United States is hereby authorized to appoint two additional inspectors-general for the United States army; said inspectors-general to have the same rank and receive the same pay and allowances as now provided by law for inspectors-general.

6 August 1861 § 4.  
12 Stat. 318.

Additional inspectors-general.

11. The president of the United States is hereby authorized to appoint two additional inspectors-general of the United States army, to have the same rank and receive the same pay and allowances as now provided by law for inspectors-general.

6 August 1861 § 3.  
12 Stat. 318.

12. That the president be and he is hereby authorized to establish and organize army corps according to his discretion.

17 July 1862 § 9.  
12 Stat. 598.

Ibid. § 10.

13. Each army corps shall have the following officers and no more attached thereto, who shall constitute the staff of the commander thereof: one assistant adjutant-general, one quartermaster, one commissary of subsistence, and one assistant inspector-general, who shall bear respectively the rank of lieutenant colonel, and who shall be assigned from the army or volunteer force by the president. Also three aides-de-camp, one to bear the rank of major, and two to bear the rank of captain, to be appointed by the president, by and with the advice and consent of the senate, upon the recommendation of the commander of the army corps. The senior officer of artillery in each army corps shall, in addition to his other duties, act as chief of artillery and ordnance at the headquarters of the corps.

Organization of army corps.

## II. CAVALRY.

14. The two regiments of dragoons, the regiment of mounted riflemen and the two regiments of cavalry shall hereafter be known and recognised as the first, second, third, fourth and fifth regiments of cavalry respectively; the officers thereof to retain their present relative rank, and to be promoted as of one arm of service, according to existing law and established usage and regulation.

3 Aug. 1861 § 12.  
12 Stat. 259.

Regiments of cavalry organized.

15. The cavalry forces in the service of the United States shall hereafter be organized as follows: each regiment of cavalry shall have one colonel, one lieutenant-colonel, three majors, one surgeon, one assistant surgeon, one regimental adjutant, one regimental quartermaster, one regimental commissary, one sergeant-major, one quartermaster-sergeant, one commissary-sergeant, two hospital stewards, one saddler-sergeant, one chief trumpeter [and one chief farrier or blacksmith], and each regiment shall consist of twelve companies or troops, and each company or troop shall have one captain, one first lieutenant, one second lieutenant and [one supernumerary second lieutenant], one first sergeant, one quartermaster-sergeant, one commissary-sergeant, five sergeants, eight corporals [two teamsters], two farriers or blacksmiths, one saddler, one wagoner, and seventy-eight privates; the regimental adjutants, the regimental quartermasters and regimental commissaries to be taken from their respective regiments: *Provided*, That vacancies caused by this organization shall not be considered as original, but shall be filled by regular promotion.

17 July 1862 § 11.  
12 Stat. 599.

Organization of cavalry regiments.

16. Hereafter each regiment of cavalry organized in the United States service, may have two assistant surgeons, and each company or troop of cavalry shall have from sixty to seventy-eight privates.

6 Jan. 1863 § 1.  
12 Stat. 634.

17. The grades created in the cavalry forces of the United States by section eleven of the act approved 17 July 1862, and for which no rate of compensation has been provided, shall be paid as follows, to wit: regimental commissary the same as regimental quartermaster; chief trumpeter the same as chief bugler; saddler-sergeant the same as regimental commissary-sergeant; company commissary-sergeant the same as company quartermaster-sergeant: *Provided*, That the grade of supernumerary second lieutenant, and two teamsters for each company, and one chief farrier and blacksmith for each regiment, as allowed by said section of that act, be and they are hereby abolished; and each cavalry company may have two trumpeters, to be paid as buglers; and each regiment shall have one veterinary surgeon, with the rank of a regimental sergeant-major, whose compensation shall be seventy-five dollars per month.

3 March 1863 § 37.  
12 Stat. 787.

Pay of certain grades.

Certain grades abolished and others established.

## III. ENGINEERS.

18. That the superintendent of the military academy, while serving as such by appointment of the president, shall have the local rank, the pay and allowances of a colonel of engineers: that the commandant of the corps of cadets at the military academy, while serving as such by appointment of the president, shall have the local rank, the pay and allowances of a lieutenant-colonel of engineers, and besides his other duties, shall be charged with the duty of instructor in the tactics of the three arms at said academy; and that the senior assistant instructor in each of the arms of service,

12 June 1858 § 1.  
11 Stat. 333.

Rank and pay of superintendent, &c., of military academy.

12 June 1858.

viz.: of artillery, cavalry and infantry, shall severally receive the pay and allowances of the assistant professor of mathematics.

3 August 1861 § 3.  
12 Stat. 287.

19. There shall be added to each of the corps of engineers and topographical engineers three first and three second lieutenants, to be promoted thereto in accordance with the existing laws and regulations.

Ibid. § 4.

Additional companies of engineer soldiers.

20. There shall be added to the corps of engineers three companies of engineer soldiers, to be commanded by appropriate officers of said corps, to have the same pay and rations, clothing and other allowances, and be entitled to the same benefits in every respect as the company created by the act for the organization of a company of sappers and miners and pontoniers, approved May 16th (15th) 1846. (a) The said three companies shall be subject to the rules and articles of war; shall be recruited in the same manner and with the same limitations; shall be instructed in and perform the same duties, and be liable to serve in the same way, and shall have their vehicles, pontoons, tools, implements, arms and other supplies, regulated in the same manner as the existing engineer company; and each of the four companies of engineer soldiers shall hereafter be composed of ten sergeants, ten corporals, two musicians, sixty-four privates of the first class, or artificers, and sixty-four privates of the second class, in all one hundred and fifty men each.

Ibid. § 8.

Cadets not to be reappointed, except on recommendation of the academic board.

21. No cadet who has been or shall hereafter be reported as deficient, either in conduct or studies, and recommended to be discharged from the academy, shall be returned or reappointed, or appointed to any place in the army before his class shall have left the academy and received their commissions, unless upon the recommendation of the academic board of the academy: *Provided*, That all cadets now in the service, or here after entering the military academy at West Point, shall be called on to take and subscribe the following oath: "*I, A. B., do solemnly swear that I will support the constitution of the United States, and bear true allegiance to the national government; that I will maintain and defend the sovereignty of the United States paramount to any and all allegiance, sovereignty or fealty I may owe to any state, county or country whatsoever; and that I will at all times obey the legal orders of my superior officers, and the rules and articles governing the armies of the United States.*" And any cadet or candidate for admission who shall refuse to take this oath shall be dismissed from the service.

Oath of cadets.

6 August 1861 § 1.  
12 Stat. 317.

22. There shall be added to each of the corps of engineers and topographical engineers, by regular promotion of their present officers, two lieutenant-colonels and four majors.

Ibid. § 2.

Company of topographical engineers.

23. There shall be added to the corps of topographical engineers one company of soldiers, to be commanded by appropriate officers of said corps, to have the same pay and rations, clothing and other allowances, and to be entitled to the same benefits in every respect as the company created by the act for the organization of a company of sappers and miners, and pontoniers, approved May 16th (15th) 1846. (b) The said company shall be subject to the rules and articles of war, and shall have the same organization as the companies of engineer soldiers attached to the corps of engineers.

6 August 1861 § 1.  
12 Stat. 318.

24. There shall be added to each of the corps of engineers and topographical engineers, by regular promotion of their present officers, two lieutenant-colonels and four majors.

Ibid. § 2.

Topographical engineers.

25. There shall be added to the corps of topographical engineers one company of soldiers, to be commanded by appropriate officers of said corps, to have the same pay and rations, clothing and other allowances, and to be entitled to the same benefits in every respect as the company created by the act for the organization of a company of sappers and miners, and pontoniers, approved May 16th (15th) 1846. (b) The said company shall be subject to the rules and articles of war, and shall have the same organization as the companies of engineer soldiers attached to the corps of engineers.

3 March 1863 § 1.  
12 Stat. 743.

Organization of engineer corps.

26. The corps of topographical engineers, as a distinct branch of the army, is hereby abolished, and from and after the passage of this act is merged into the corps of engineers, which shall have the following organization, viz.: one chief engineer, with the rank, pay and emoluments of a brigadier-general, four colonels, ten lieutenant-colonels, twenty majors, thirty captains, thirty first lieutenants, and ten second lieutenants.

Ibid. § 2.

Rank.

27. The general officer provided by the first section of this act shall be selected from the corps of engineers as therein established; and officers of all lower grades shall take rank according to their respective dates of commission in the existing corps of engineers or corps of topographical engineers.

Ibid. § 3.

Promotions.

28. No officer of the corps of engineers below the rank of a field-officer shall hereafter be promoted to a higher grade before having passed a satisfactory examination before a board of three engineers senior to him in rank; and should the officer fail at said examination, he shall be suspended from promotion from [for] one year, when he shall be

re-examined, and, upon a second failure, shall be dropped by the president from the army. 3 March 1863.

## IV. ORDNANCE DEPARTMENT.

29. There shall be added to the ordnance department of the United States army, as now organized, one chief of ordnance, with the rank, pay and emoluments of the quartermaster-general of the army, one colonel, one lieutenant-colonel, and six second lieutenants; the field officers to be appointed by selection from the officers of the army, and the second lieutenants from the graduates of the United States military academy, by transfers from the engineers, or the topographical engineers or the artillery. 3 Aug. 1861 § 3. 12 Stat. 237. Increase of ordnance department. Appointments.

30. That so much of the first section of the act approved August 5th 1854, (a) as authorizes the appointment of civilians to superintend the national armories, be and the same is hereby repealed, and that the superintendents of these armories shall be appointed hereafter from officers of the ordnance department. 6 Aug. 1861 § 5. 12 Stat. 318. Ordnance officers.

31. The enlisted men of the ordnance department, now designated as master-workmen, shall hereafter be designated and mustered as sergeants; those now designated as armorers, carriage-makers and blacksmiths shall be designated and mustered as corporals; those now designated as artificers shall be designated and mustered as privates of the first class; and those now designated as laborers shall be designated and mustered as privates of the second class: *Provided*, That the pay, rations and clothing now authorized by law to the respective grades of enlisted ordnance men shall not be changed. 5 July 1862 § 3. 12 Stat. 508. Rank and pay of enlisted men.

32. There shall be added to the ordnance department (b) one lieutenant-colonel, two majors, eight captains, eight first lieutenants; the additional officers herein authorized to be appointed by promotion, so far as the present officers of the ordnance corps will permit; and the residue to be appointed by transfers from other regiments or corps of the army: *Provided*, That no officer of the ordnance department below the rank of a field officer shall be promoted or commissioned to a higher grade, nor shall any officer of the army be commissioned as an ordnance officer until he shall have passed a satisfactory examination before a board of not less than three ordnance officers senior to him in rank; and should such officer fail on such examination he shall be suspended from promotion or appointment for one year, when he may be re-examined before a like board; and if, upon such second examination, an ordnance officer fail he shall be dismissed from the service, and if an officer of the army he shall not be commissioned. 8 March 1863 § 4. 12 Stat. 743. Additional officers. Examination for appointment or promotion.

## V. QUARTERMASTER'S DEPARTMENT.

33. No permanent barracks and quarters shall hereafter be constructed unless detailed estimates shall have been previously submitted to congress, and shall have been approved by a special appropriation for the same. 3 March 1859 § 1. 11 Stat. 432.

34. There shall be added to the quartermaster's department one colonel, two lieutenant-colonels, four majors and twenty captains, with the rank, pay and allowances of officers of cavalry; and whenever any army captain of the quartermaster's department shall have served fourteen years continuous service he shall be promoted to the rank of major; and that there shall be added to the quartermaster's department as many master wagoners, with the rank, pay and allowances of sergeants of cavalry, and as many wagoners, with the pay and allowances of corporals of cavalry, as the military service, in the judgment of the president, may render necessary. 3 Aug. 1861 § 3. 12 Stat. 257. Additional Officers. Promotion. Wagoners.

35. That the president of the United States be and he hereby is authorized, by and with the consent of the senate, to appoint as many military storekeepers in the quartermaster's department of the army as the exigencies of the service may require; provided the whole number of military storekeepers in that department shall not exceed twelve. 5 July 1862 § 8. 12 Stat. 509. Military storekeepers.

## VI. COMMISSARY DEPARTMENT.

36. That there be added to the subsistence department of the army one brigadier-general, to be selected from the subsistence department, who shall be commissary-general of subsistence, and, by regular promotion, one colonel, one lieutenant-colonel and two majors; the colonels and lieutenant-colonels to be assistant commissaries-general of subsistence, and that vacancies in the above-mentioned grades shall be filled by regular promotions in said department. And the vacancies created by promotions herein authorized may be filled by selections from the officers of the regular or volunteer force. 9 Feb. 1863 § 1. 12 Stat. 648. Additional officers in the commissary department.

## VII. STAFF OFFICERS.

37. That there be added to the staff of the army one signal officer, with the rank, pay and allowances of a major of cavalry, who shall have charge, under the direction of the secretary of war, of all signal duty, and of all books, papers and apparatus connected therewith. (c) 21 June 1860 § 1. 12 Stat. 66. Signal officer.

(a) 10 Stat. 578.

(b) During the rebellion only, by § 12.

(c) See infra 39-42.



17 July 1862 § 22.  
12 Stat. 597.

Additional officers in adjutant-general's department.

38. There shall be added to the adjutant-general's department, by regular promotion of its present officers, one colonel, two lieutenant-colonels and nine majors; and the grade of captain in said department shall thereafter be abolished, and all vacancies occurring in the grade of major shall be filled by selection from among the captains of the army.

#### VIII. SIGNAL CORPS.

3 March 1863 § 17.  
12 Stat. 753.

Signal corps to be organized.

39. The signal corps of the army shall, during the present rebellion, be organized as follows: There shall be one chief signal officer, a colonel, who shall be signal officer of the army; one lieutenant-colonel; two majors, who shall be inspectors; and for each army corps or military department there shall be one captain and as many lieutenants, not exceeding eight, as the president may deem necessary, to be appointed by the president, by and with the advice and consent of the senate, who shall receive the pay and emoluments of cavalry officers of similar grades; and for each officer of the signal corps there may be enlisted one sergeant and six privates, who shall receive the pay of similar grades of engineer soldiers: *Provided*, That no officer or enlisted man shall be allowed to serve in the signal corps until he shall have been examined and approved by a military board, to be convened for that purpose by the secretary of war.

*Ibid.* § 18.  
To be subject to the articles of war.

40. The officers and enlisted men herein provided for shall be subject to the rules and articles of war. They may be mounted upon horses, the property of the United States, and shall serve in any military department, or with any forces to which they may be ordered. And officers of the army who may be appointed in this corps may, after the rebellion, be restored to their respective regiments or corps, and receive the same rank and promotion as if they had continued to serve therein.

*Ibid.* § 19.  
Clerks.

41. There shall be appointed in the office of the signal officer two clerks of class two. And in selecting officers and men for the organization of the signal corps, as herein provided, preference shall be given to such as have served faithfully, or as are now serving in the acting signal corps of the army.

*Ibid.* § 20.  
Appointments.

42. In order to allow time for their thorough examination, the president may appoint the officers authorized by this act during the recess of congress; which appointments shall be submitted to the senate at their next session for their advice and consent.

#### IX. MEDICAL DEPARTMENT.

21 June 1860 § 2.  
12 Stat. 67.

3 Aug. 1861 § 5.  
12 Stat. 288.

Medical cadets to be appointed.  
Rank and pay.  
Qualifications.

Term of service.

*Ibid.* § 6.  
Female nurses may be employed in hospitals.

16 April 1862 § 1.  
12 Stat. 378.

Temporary increase of medical department.

Rations of cadets.

*Ibid.* § 2.  
Rank and pay of surgeon-general, assistant surgeon-general, and medical inspector-general.

43. That there be added to the medical corps of the army four surgeons and four assistant surgeons, to be appointed in accordance with the existing laws.

44. That there be added to the medical staff of the army a corps of medical cadets, whose duty it shall be to act as dressers in the general hospitals, and as ambulance attendants in the field, under the direction and control of the medical officers alone. They shall have the same rank and pay as the military cadets at West Point. Their number shall be regulated by the exigencies of service, at no time to exceed fifty. It shall be composed of young men of liberal education, students of medicine, between the ages of eighteen and twenty-three, who have been reading medicine for two years, and have attended at least one course of lectures in a medical college. They shall enlist for one year, and be subject to the rules and articles of war. On the fifteenth day of the last month of their service, the near approach of their discharge shall be reported to the surgeon-general, in order, if desired, that they may be relieved by another detail of applicants.

45. In general or permanent hospitals female nurses may be substituted for soldiers, when, in the opinion of the surgeon-general or medical officer in charge, it is expedient to do so; the number of female nurses to be indicated by the surgeon-general or surgeon in charge of the hospital. The nurses so employed to receive forty cents a day and one ration in kind, or by commutation, in lieu of all emoluments except transportation in kind.

46. There shall be added to the present medical corps of the army ten surgeons and ten assistant surgeons, to be promoted and appointed under existing laws, twenty medical cadets, and as many hospital stewards as the surgeon-general may consider necessary for the public service; and their pay and that of all hospital stewards in the volunteer as well as the regular service shall be thirty dollars per month, to be computed from the passage of this act. And all medical cadets in the service shall, in addition to their pay, receive one ration per day either in kind or commutation.

47. The surgeon-general to be appointed under this act shall have the rank, pay and emoluments of a brigadier-general. There shall be one assistant surgeon-general and one medical inspector-general of hospitals, each with the rank, pay and emoluments of a colonel of cavalry; and the medical inspector-general shall have, under the direction of the surgeon-general, the supervision of all that relates to the sanitary condition of the army, whether in transports, quarters or camps, and of the hygiene, police, discipline and efficiency of field and general hospitals, under such regulations as may hereafter be established.

48. There shall be eight medical inspectors, with the rank, pay and emoluments each of a lieutenant-colonel of cavalry, and who shall be charged with the duty of inspecting the sanitary condition of transports, quarters and camps of field and general hospitals, and who shall report to the medical inspector-general, under such regulations as may be hereafter established, all circumstances relating to the sanitary condition and wants of troops and of hospitals, and to the skill, efficiency and good conduct of the officers and attendants connected with the medical department.

16 April 1862.  
Medical  
inspectors.

49. The surgeon-general, the assistant surgeon-general, medical inspector-general and medical inspectors, shall immediately after the passage of this act be appointed by the president, by and with the advice and consent of the senate, by selection from the medical corps of the army, or from the surgeons in the volunteer service, without regard to their rank when so selected, but with sole regard to qualifications.

Ibid. § 4.  
Appointments.

50. Medical purveyors shall be charged, under the direction of the surgeon-general, with the selection and purchase of all medical supplies, including new standard preparations, and of all books, instruments, hospital stores, furniture and other articles required for the sick and wounded of the army. In all cases of emergency, they may provide such additional accommodations for the sick and wounded of the army, and may transport such medical supplies as circumstances may render necessary, under such regulations as may hereafter be established, and shall make prompt and immediate issues upon all special requisitions made upon them under such circumstances by medical officers; and the special requisitions shall consist simply of a list of the articles required, the quantities required, dated and signed by the medical officers requiring them.

Ibid. § 5.  
Duties of medical  
purveyors.

51. Whenever the inspector-general, or any one of the medical inspectors, shall report an officer of the medical corps as disqualified, by age or otherwise, for promotion to a higher grade, or unfitted for the performance of his professional duties, he shall be reported by the surgeon-general for examination to a medical board, as provided by the 17th section of the act approved August 3d 1861.(a)

Ibid. § 6.  
When medical  
officers may be  
retired.

52. The provisions of this act shall continue and be in force during the existence of the present rebellion and no longer: *Provided, however*, That, when this act shall expire, all officers who shall have been promoted from the medical staff of the army under this act shall retain their respective rank in the army, with such promotion as they would have been entitled to.

Ibid. § 7.  
Limitation of act.

53. The medical inspector-general or any medical inspector, is hereby authorized and empowered to discharge from the service of the United States any soldier or enlisted man, with the consent of such soldier or enlisted man, in the permanent hospitals, laboring under any physical disability which makes it disadvantageous to the service that he be retained therein; and the certificate in writing of such inspector-general or medical inspector, setting forth the existence and nature of such physical disability, shall be sufficient evidence of such discharge: *Provided, however*, That every such certificate shall appear on its face to have been founded on personal inspection of the soldier so discharged, and shall specifically describe the nature and origin of such disability; and that such discharge shall be without prejudice to the right of such soldier or enlisted man to the pay due him at the date thereof; and report the same to the adjutant-general and the surgeon-general.

14 May 1862 § 1.  
12 Stat. 385.  
Medical inspect-  
ors may dis-  
charge enlisted  
men for perma-  
nent physical  
disability.

Certificate.

54. That the secretary of war be authorized to add to the medical department of the army, medical storekeepers, not exceeding six in number, who shall have the pay and emoluments of military storekeepers in the quartermaster's department, who shall be skilled apothecaries or druggists, who shall give the bond and security required by existing laws for military storekeepers in the quartermaster's department, and who shall be stationed at such points as the necessities of the army may require: *Provided*, That the provisions of this act shall remain in force only during the continuance of the present rebellion.

20 May 1862 § 1.  
12 Stat. 403.  
Medical  
storekeepers.  
Pay.  
Bonds.

55. Medical purveyors and storekeepers shall give bonds in such sums as the secretary of war may require with security to be approved by him.

17 July 1862 § 16.  
12 Stat. 600.

56. There shall be added to the present medical corps of the army eight medical inspectors, who shall, immediately after the passage of this act, be appointed by the president, by and with the advice and consent of the senate, without regard to their rank when so selected, but with sole regard to qualifications, and who shall have the rank, pay and emoluments now authorized by law to officers of that grade.

27 Dec. 1862 § 1.  
12 Stat. 633.  
Additional medi-  
cal inspectors.

57. The officers of the medical inspector's department shall be charged, in addition to the duties now assigned to them by existing laws, with the duty of making regular and frequent inspections of all military general hospitals and convalescent camps, and shall, upon each such inspection, designate to the surgeon in charge of such hospitals

Ibid. § 2.  
Discharge of sol-  
diers for  
disability.

(a) See in/ra 111.

11 July 1862.

or camps, all soldiers who may, be in their opinion, fit subjects for discharge from the service, on surgeon's certificate of disability, or sufficiently recovered to be returned to their regiments for duty, and shall see that such soldiers are discharged or so returned. And the medical inspecting officers are hereby empowered, under such regulations as may be hereafter established, to direct the return to duty or the discharge from service, as the case may be, of all soldiers designated by them.

## X. CHAPLAINS.

8 Aug. 1861 § 7.  
12 Stat. 288.Regimental  
chaplains.20 May 1862 § 2.  
12 Stat. 404.Hospital  
chaplains.

58. One chaplain shall be allowed to each regiment of the army, to be selected and appointed as the president may direct: [*Provided*, That none but regularly ordained ministers of some Christian denomination shall be eligible to selection or appointment.]

59. The president of the United States is hereby authorized to appoint, if he shall deem it necessary, a chaplain for each permanent hospital, whose pay, with that of chaplains of hospitals heretofore appointed by him, shall be the same as that of regimental chaplains in the volunteer force, and who shall be subject to such rules in relation to leave of absence from duty as are prescribed for commissioned officers of the army.

17 July 1862 § 8.  
12 Stat. 595.Qualifications of  
chaplains.

60. So much of section nine of the aforesaid act, approved July 22d 1861, (a) and of section seven of the "act providing for the better organization of the military establishment," approved August 3d 1861, (b) as defines the qualifications of chaplains in the army and volunteers, shall hereafter be construed to read as follows: That no person shall be appointed a chaplain in the United States army who is not a regularly ordained minister of some religious denomination, and who does not present testimonials of his present good standing as such minister, with a recommendation for his appointment as an army chaplain from some authorized ecclesiastical body, or not less than five accredited ministers belonging to said religious denomination.

Ibid. § 9.

Compensation.

61. The compensation of all chaplains in the regular or volunteer service or army hospitals shall be one hundred dollars per month, and two rations a day when on duty; and the chaplains of the permanent hospitals, appointed under the authority of the second section of the act approved May 20th 1862, (c) shall be nominated to the senate for its advice and consent, and they shall, in all respects, fill the requirements of the preceding section of this act relative to the appointment of chaplains in the army and volunteers; and the appointments of chaplains to army hospitals, heretofore made by the president, are hereby confirmed; and it is hereby made the duty of each officer commanding a district or post containing hospitals, or a brigade of troops, within thirty days after the reception of the order promulgating this act, to inquire into the fitness, efficiency and qualifications of the chaplains of hospitals or regiments, and to muster out of service such chaplains as were not appointed in conformity with the requirements of this act, and who have not faithfully discharged the duties of chaplains during the time they have been engaged as such. Chaplains employed at the military posts called "chaplains' posts" shall be required to reside at the posts, and all chaplains in the United States service shall be subject to such rules in relation to leave of absence from duty as are prescribed for commissioned officers of the United States army stationed at such posts.

Inquiry into  
qualification of  
chaplains.Residence at  
posts.

## XI. BREVET RANK.

8 March 1863 § 1.  
12 Stat. 758.President may  
confer brevet  
rank for distin-  
guished services.

62. That the president of the United States be and he hereby is authorized, by and with the advice and consent of the senate, to confer brevet rank upon such commissioned officers of the volunteer and other forces in the United States service as have been, or may hereafter be distinguished by gallant actions or meritorious conduct; which rank shall not entitle them to any increase of pay or emoluments.

## XII. ENLISTMENTS.

16 Mar. 1862 § 11.  
2 Stat. 134.Who may be en-  
listed.

Age and size.

63. The non-commissioned officers who shall be employed in the recruiting service, to keep up by voluntary enlistment, the corps aforesaid, shall be entitled to receive for every effective able-bodied citizen of the United States, (d) who shall be duly enlisted by him for the term of five years and mustered, of at least five feet six inches high, (e) and between the ages of eighteen and thirty-five years, (g) the sum of two dollars; (h) *Provided, nevertheless*, That this regulation, so far as respects the height and age of the recruit, shall not extend to musicians, or to those soldiers who may re-enlist into the service: *And provided also*, That no person under the age of twenty-one years shall be enlisted by any officer, or held in the service of the United States, without the consent

Minors not to be  
enlisted without(a) *Infra* 138.(b) *Supra* 58.(c) *Supra* 60.(d) The enlistment of an alien is binding. *United States v.*

Wynhall, 6 Law Rep. 164.

(e) See ante 73, pl. 170.

(g) A minor, under eighteen, cannot be enlisted, and held in the military service, even with the consent of his parents. *Burke's Case*, before Cadwalader, J. District Court, Penn., 21 August 1863, N.S. But the contract of enlistment of a minor, is voidable only, not void. *Dew's Case*, 25 Law Rep. 538.

(h) See ante 73, pl. 168.

of his parent, (a) guardian or master, (b) first had and obtained, (c) if any he have. (d) And if any officer shall enlist any person contrary to the true intent and meaning of this act, for every such offence he shall forfeit and pay the amount of the bounty and clothing which the person so recruited may have received from the public, to be deducted out of the pay and emoluments of such officer. (e).

16 March 1802.  
consent of parents, &c.  
Penalty for so doing.

64. It shall be lawful for any commissioned officer of the army to administer the prescribed oath of enlistment to recruits: *Provided*, The services of a civil magistrate authorized to administer the same cannot be obtained.

12 June 1858 § 3.  
11 Stat. 336.  
Oath to recruits.

65. That the three months' extra pay allowed by the 29th section of the act of the 5th of July 1838, (g) for re-enlistments under certain conditions, the bounty granted by the 3d section of the act of the 17th of June 1850, (h) for enlistments at remote and distant stations [and the premium now paid for bringing accepted recruits to the rendezvous], be and they are hereby abolished.

3 Aug. 1861 § 9.  
12 Stat. 288.  
Certain bounties for re-enlistments abolished.

66. In all cases of enlistment and re-enlistment in the military service of the United States the prescribed oath of allegiance may be administered by any commissioned officer of the army.

Ibid. § 11.  
Who may administer oath.

67. That the fifth section of the act of 28th September 1850, (i) providing for the discharge from the service of minors enlisted without the consent of their parents or guardians be and the same hereby is repealed: *Provided*, That hereafter no person under the age of eighteen shall be mustered into the United States service, and the oath of enlistment taken by the recruit shall be conclusive as to his age. (k)

13 Feb. 1862 § 2.  
12 Stat. 339.  
Enlistment of minors over 18 years of age authorized.

68. That so much of the ninth section of the act approved August 3d 1861, entitled "An act [providing] for the better organization of the military establishment," as abolishes the premium paid for bringing accepted recruits to the rendezvous, be and the same is hereby repealed, and hereafter a premium of two dollars shall be paid to any citizen, non-commissioned officer or soldier for such accepted recruit for the regular army he may bring to the rendezvous. And every soldier who hereafter enlists, either in the regular army or the volunteers for three years or during the war, may receive his first month's pay in advance upon the mustering of his company into the service of the United States, or after he shall have been mustered into and joined a regiment already in the service.

21 June 1862 § 1.  
12 Stat. 620.  
Premium for recruits.

Advance pay.

69. That general orders of the war department numbered 154 and 162, in reference to enlistments from the volunteers into the regular service, be and the same are hereby rescinded, and hereafter no such enlistments shall be allowed.

3 Mar. 1863 § 86.  
12 Stat. 736.  
Volunteers not to be enlisted.

### XIII. ARTICLES OF WAR.

70. Any commissioned officer of the army, navy or marine corps who, having tendered his resignation, shall, prior to due notice of the acceptance of the same by the proper authority and without leave, quit his post or proper duties with the intent to remain permanently absent therefrom, shall be registered as a deserter and punished as such.

5 Aug. 1861 § 2.  
12 Stat. 310.  
Desertion defined.

71. Flogging as a punishment in the army is hereby abolished.

Ibid. § 3.

72. In time of war, the commander of a division or separate brigade may appoint general courts martial, and confirm, execute, pardon and mitigate their sentences, as allowed and restrained in the sixty-fifth and eighty-ninth articles of war to commanders of armies and departments: *Provided*, That sentences of such courts extending to loss of life, or dismissal of a commissioned officer, shall require the confirmation of the general commanding the army in the field to which the division or brigade belongs: *And provided further*, That when the division or brigade commander shall be the accuser or prosecutor, the court shall be appointed by the next higher commander.

24 Dec. 1861 § 1.  
12 Stat. 330.

Who may appoint general courts martial in time of war.

Their powers.

73. The second section of the act of the 10th of April 1806, (l) shall be and the same is hereby so amended as to read as follows:—

13 Feb. 1862 § 4.  
12 Stat. 339.

"In time of war or rebellion against the supreme authority of the United States, all persons who shall be found lurking as spies, or acting as such, in or about the fortifications, encampments, posts, quarters or headquarters of the armies of the United States,

Punishment of spies.

(a) A mother is a parent within the act. *Commonwealth v. Callan*, 6 Minn. 255. *Shorner's Case*, 1 Car. L. Rep. 55.

(b) If an apprentice enlist in the army, the courts will not, upon a *habeas corpus* issued at the relation of the master, remand the apprentice to his custody, if he be unwilling to return, but will leave the master to his suit against the officer. The *habeas corpus* act is intended to secure personal liberty, not to decide disputes about property. *Commonwealth v. Robinson*, 1 S. & R. 363. *Commonwealth v. Harris*, 7 Penn. L. J. 283.

(c) A consent in writing after the enlistment, will render it valid. *Commonwealth v. Canac*, 1 S. & R. 87.

(d) This act is still in force, and the state courts have jurisdiction, on *habeas corpus*, to discharge one enlisted contrary to its provisions. *Wilson's Case*, 18 Leg. Int. 316. *Dobb's Case*, 9 Am. L. R. 565; dissenting from *Pheasant's Case*, 9 Abbott 288. And see *United States v. Wright*, 20 Leg. Int. 21; and *Commonwealth v. Carter*, Ibid. *Henderson's Case*, Ibid. 181.

(e) Re-enacted by act 12 April 1800, § 5; 2 Stat. 483; and act 3

March 1815, § 7; 3 Stat. 225.

(g) 5 Stat. 260. See ante § 3, note e.

(h) Ante § 3, pl. 171.

(i) Ante § 3, pl. 172.

(k) Since the passage of this act, a minor between the ages of eighteen and twenty-one, may be enlisted without the consent of his parents. *Follis's Case*, 19 Leg. Int. 276. But see *United States v. Wright*, 20 Leg. Int. 21, and *Commonwealth v. Carter*, Ibid.; *Henderson's Case*, Ibid. 181, where it is held, that the act of 1862 is still in force, and that such enlistment is void. In *Shirk's Case*, however, a discharge, under similar circumstances, was refused. 20 Leg. Int. 290. The oath of enlistment though conclusive upon the recruiting officer, is not so upon the courts. *Webb's Case*, 10 Pittsburgh Leg. J. 106. *Contra*, *United States v. Taylor*, 20 Leg. Int. 284. *Jordan's Case*, 11 Am. L. R. 749. A prisoner of war paroled by the enemy is not entitled to his discharge, although a minor, until exchanged. *Henderson's Case*, 20 Leg. Int. 191.

(l) Ante § 3, pl. 275.

13 Feb. 1862.

or any of them within any part of the United States which has been or may be declared to be in a state of insurrection by proclamation of the president of the United States, shall suffer death by sentence of a general court martial."

Ibid. § 5.

Forcing a safeguard.

74. That the 55th article of the first section of act of 10th April 1806, chapter 20, (a) be and the same is hereby so amended as to read as follows:—

ART. LV. Whoever belonging to the armies of the United States in foreign parts, or at any place within the United States or their territories, during rebellion against the supreme authority of the United States, shall force a safeguard, shall suffer death.

13 Mar. 1862 § 1.  
12 Stat. 354.

Fugitives from labor not to be returned by military officers.

75. The following shall be promulgated as an additional article of war for the government of the army of the United States, and shall be obeyed and observed as such:—

ART. —. All officers or persons in the military or naval service of the United States are prohibited from employing any of the forces under their respective commands for the purpose of returning fugitives from service or labor, who may have escaped from any persons to whom such service or labor is claimed to be due; and any officer who shall be found guilty by a court martial of violating this article shall be dismissed from the service.

16 July 1862 § 1.  
12 Stat. 589.

When prisoner may be sentenced to imprisonment in the penitentiary.

76. No person in the military service of the United States, convicted and sentenced by a court martial, shall be punished by confinement in the penitentiary of the District of Columbia, unless the offence of which such person may be convicted would by some statute of the United States, or at common law, as the same exists in the said District, subject such convict to said punishment.

Ibid. § 2.

Others to be discharged.

77. All such persons in the military service as aforesaid, who have heretofore been, or may hereafter be convicted and sentenced by a court martial for any offence which, if tried before the criminal court of said District, would not subject such person to imprisonment in said penitentiary, and who are now or may hereafter be confined therein, shall be discharged from said imprisonment upon such terms and conditions of further punishment as the president of the United States may, in his discretion, impose as a commutation of said sentence.

Ibid. § 3.

Mode of discharge.

78. Upon the application of any citizen of the United States, supported by his oath, alleging that a person or persons in the military service as aforesaid are confined in said penitentiary, under the sentence of a court martial, for any offence not punishable by imprisonment in the penitentiary by the authority of the criminal court aforesaid, it shall be the duty of the judge of said court, or, in case of his absence or inability, of one of the judges of the circuit court of said District, if, upon an inspection of the record of proceedings of said court martial, he shall find the facts to be as alleged in said application, immediately to issue the writ of *habeas corpus* to bring before him the said convict; and if, upon an investigation of the case, it shall be the opinion of such judge that the case of such convict is within the provisions of the previous sections of this act, he shall order such convict to be confined in the common jail of said district, until the decision of the president of the United States as to the commutation aforesaid shall be filed in said court, and then such convict shall be disposed of and suffer such punishment as by said commutation of his said sentence may be imposed.

Ibid. § 4.

17 July 1862 § 11.  
12 Stat. 593.

Arrest and trial of officers.

79. No person convicted upon the decision of a court martial shall be confined in any penitentiary of the United States, except under the conditions of this act.

80. Whenever an officer shall be put under arrest, except at remote military posts or stations, it shall be the duty of the officer by whose orders he is arrested to see that a copy of the charges on which he has been arrested and is to be tried shall be served upon him within eight days thereafter, and that he shall be brought to trial within ten days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of the said ten days or the arrest shall cease: *Provided*, That if the copy of the charges be not served upon the arrested officer as herein provided, the arrest shall cease; but officers released from arrest under the provisions of this section may be tried whenever the exigencies of the service will permit, within twelve months after such release from arrest: *And provided further*, That the provisions of this section shall apply to all persons now under arrest and awaiting trial.

17 July 1862 § 5.  
12 Stat. 595.

Judge advocate general.

81. The president shall appoint, by and with the advice and consent of the senate, a judge advocate general, with the rank, pay and emoluments of a colonel of cavalry, to whose office shall be returned for revision the records and proceedings of all courts martial and military commissions, and where a record shall be kept of all proceedings had thereupon. And no sentence of death or imprisonment in the penitentiary shall be carried into execution until the same shall have been approved by the president.

When president to approve sentence.

Ibid. § 6.

82. There may be appointed by the president, by and with the advice and consent of the senate, for each army in the field, a judge advocate, with the rank, pay and

(a) Ante 78, pl. 228.

emoluments each of a major of cavalry, who shall perform the duties of judge advocate for the army to which they respectively belong, under the direction of the judge advocate general.

17 July 1862.

83. All offenders in the army charged with offences now punishable by a regimental or garrison court martial, shall be brought before a field officer of his regiment, who shall be detailed for that purpose, and who shall hear and determine the offence, and order the punishment that shall be inflicted; and shall also make a record of his proceedings, and submit the same to the brigade commander, who, upon the approval of the proceedings of such field officer, shall order the same to be executed: *Provided*, That the punishment in such cases be limited to that authorized to be inflicted by a regimental or garrison court martial: *And provided further*, That, in the event of there being no brigade commander, the proceedings as aforesaid shall be submitted for approval to the commanding officer of the post.

Ibid. § 7.

When field officers may punish.

Approval of sentence.

84. That so much of the fifth section of the act approved 17th July 1862, entitled "An act to amend an act calling forth the militia to execute the laws of the Union," and so forth, as requires the approval of the president to carry into execution the sentence of a court martial, be and the same is hereby repealed, as far as relates to carrying into execution the sentence of any court martial against any person convicted as a spy or deserter, or of mutiny or murder; and hereafter sentences in punishment of these offences may be carried into execution upon the approval of the commanding general in the field.

3 Mar. 1863 § 21.  
12 Stat. 735.

Approval of sentences of spies and deserters.

85. Courts martial shall have power to sentence officers who shall absent themselves from their commands without leave, to be reduced to the ranks to serve three years or during the war.

Ibid. § 22.

Officers may be reduced to the ranks.

86. Immediately after the passage of this act the president shall issue his proclamation declaring that all soldiers now absent from their regiments without leave, may return within a time specified to such place or places as he may indicate in his proclamation, and be restored to their respective regiments without punishment, except the forfeiture of their pay and allowances during their absence; and all deserters who shall not return within the time so specified by the president shall, upon being arrested, be punished as the law provides.

Ibid. § 23.

Return of soldiers absent without leave.

87. Depositions of witnesses residing beyond the limits of the state, territory or district in which military courts shall be ordered to sit, may be taken, in cases not capital, by either party and read in evidence; provided the same shall be taken upon reasonable notice to the opposite party and duly authenticated.

Ibid. § 27.

When depositions may be read before courts martial.

88. The judge advocate shall have power to appoint a reporter, whose duty it shall be to record the proceedings of and testimony taken before military courts instead of the judge advocate; and such reporter may take down such proceedings and testimony in the first instance in shorthand. The reporter shall be sworn or affirmed faithfully to perform his duty before entering upon it.

Ibid. § 28.

Appointment of reporter.

89. The court shall, for reasonable cause, grant a continuance to either party for such time and as often as shall appear to be just: *Provided*, That if the prisoner be in close confinement the trial shall not be delayed for a period longer than sixty days.

Ibid. § 29.

Continuances regulated.

90. In time of war, insurrection or rebellion, murder, assault and battery with an intent to kill, manslaughter, mayhem, wounding by shooting or stabbing with an intent to commit murder, robbery, arson, burglary, rape, assault and battery with an intent to commit rape and larceny, shall be punishable by the sentence of a general court martial or military commission, when committed by persons who are in the military service of the United States, and subject to the articles of war; and the punishments for such offences shall never be less than those inflicted by the laws of the state, territory or district in which they may have been committed.

Ibid. § 33.

Punishment of certain crimes in time of war.

91. All persons who in time of war or of rebellion against the supreme authority of the United States, shall be found lurking or acting as spies in or about any of the fortifications, posts, quarters or encampments of any of the armies of the United States, or elsewhere, shall be triable by a general court martial or military commission, and shall, upon conviction, suffer death.

Ibid. § 38.

Punishment of spies in time of rebellion.

92. Every judge advocate of a court martial or court of inquiry hereafter to be constituted, shall have power to issue the like process to compel witnesses to appear and testify which courts of criminal jurisdiction within the state, territory or district where such military courts shall be ordered to sit may lawfully issue.

3 Mar. 1863 § 25.  
12 Stat. 754.

Power to compel attendance of witnesses.

## XIV. PAY AND SUBSISTENCE.

93. Mileage shall not be allowed when the officer has been transferred or relieved at his own request.

3 March 1859 § 1.  
11 Stat. 432.

94. The allowance of sugar and coffee to the non-commissioned officers, musicians and

21 June 1860 § 4.  
12 Stat. 68.

21 June 1860.  
Sugar and coffee  
ration.

3 Aug. 1861 § 13.  
12 Stat. 289.

Increase of the  
ration during  
the war.

Ibid. § 14.  
Allowance for  
hospitals.

Ibid. § 19.  
Double rations  
not allowed, &c.

Ibid. § 20.  
Officers absent  
not to receive  
allowances.

6 Aug. 1861 § 1.  
12 Stat. 320.  
Pay of privates.

5 July 1862 § 10.  
12 Stat. 510.  
Commutation of  
sugar and coffee  
ration.

17 July 1862 § 1.  
12 Stat. 594.  
Forage to be  
drawn in kind.

Emoluments of  
mounted officers.

Ibid. § 2.  
Forage of mount-  
ed officers.

Ibid. § 3.  
Pay, &c. of sol-  
diers employed  
as servants to be  
credited on pay  
rolls.

Ibid. § 4.  
Act of 1861 not to  
increase pay of  
officers.

Compensation of  
quartermaster-  
sergeants.

Ibid. § 7.

privates of the army, as fixed by the 17th section of the act of the 5th of July 1838, (a) shall hereafter be ten pounds of coffee and fifteen pounds of sugar for every one hundred rations.

95. The army ration shall be increased as follows, viz.: Twenty-two ounces of bread or flour, or one pound of hard bread, instead of the present issue; fresh beef shall be issued as often as the commanding officer of any detachment or regiment shall require it, when practicable, in place of salt meat; beans and rice or hominy shall be issued in the same ration in the proportions now provided by the regulation, and one pound of potatoes per man shall be issued at least three times a week, if practicable; and when these articles cannot be issued in these proportions, an equivalent in value shall be issued in some other proper food, and a ration of tea may be substituted for a ration of coffee upon the requisition of the proper officer: *Provided*, That after the present insurrection shall cease, the ration shall be as provided by law and regulations on the 1st day of July 1861. (b)

96. There may be allowed in hospitals, to be provided under such rules as the surgeon-general of the army, with the approval of the secretary of war, may prescribe, such quantities of fresh or preserved fruits, milk or butter, and of eggs, as may be necessary for the proper diet of the sick.

97. That so much of the 6th section of the act of August 23d 1842, (c) as allows additional or double rations to the commandant of each permanent or fixed post garrisoned with troops, be and the same is hereby repealed.

98. Officers of the army, when absent from their appropriate duties for a period exceeding six months, either with or without leave, shall not receive the allowances authorized by the existing laws for servants, forage, transportation of baggage, fuel and quarters, either in kind or in commutation.

99. That the pay of the privates in the regular army and volunteers in the service of the United States be thirteen dollars per month for three years from and after the passage of this act, and until otherwise fixed by law.

100. That the secretary of war be authorized to commute the army ration of coffee and sugar for the extract of coffee, combined with milk and sugar, to be procured in the same manner and under like restrictions and guarantees as preserved meats, pickles, butter and desiccated vegetables are procured for the navy, (d) if he shall believe it will be conducive to the health and comfort of the army, and not more expensive to the government than the present ration, and if it shall be acceptable to the men.

101. Officers of the army entitled to forage for horses shall not be allowed to commute it, but may draw forage in kind for each horse actually kept by them when and at the place where they are on duty, not exceeding the number authorized by law: *Provided, however*, That when forage in kind cannot be furnished by the proper department, then, and in all such cases, officers entitled to forage may commute the same according to existing regulations: *And provided further*, That officers of the army and of volunteers assigned to duty which requires them to be mounted, shall, during the time they are employed on such duty, receive the pay, emoluments and allowances of cavalry officers of the same grade respectively.

102. Major-generals shall be entitled to draw forage in kind for five horses; brigadier-generals for four horses; colonels, lieutenant-colonels and majors for two horses each; captains and lieutenants of cavalry and artillery, or having the cavalry allowance, for two horses each; and chaplains for one horse only.

103. Whenever an officer of the army shall employ a soldier as his servant, he shall, for each and every month during which said soldier shall be so employed, deduct from his own monthly pay the full amount paid to or expended by the government per month on account of said soldier; and every officer of the army who shall fail to make such deduction shall, on conviction thereof before a general court martial, be cashiered.

104. The first section of the act approved August 6th 1861, (e) entitled "An act to increase the pay of privates in the regular army and in the volunteers in the service of the United States, and for other purposes," shall not be so construed, after the passage of this act, as to increase the emoluments of the commissioned officers of the army. And the eighth section of the act of 22d July 1861, (g) entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," shall be so construed as to give to quartermaster-sergeants the same compensation as to regimental commissary-sergeants.

105. In lieu of the present rate of mileage allowed to officers of the army when traveling on public duty, where transportation in kind is not furnished to them by the

(a) Ante 86, pl. 310.  
(b) Ante 85, pl. 292.  
(c) Ante 87, pl. 313.

(d) See tit. "Navy, 116."  
(e) *Supra* 99.  
(g) *Infra* 157.

government, not more than six cents per mile shall hereafter be allowed, unless where an officer is ordered from a station east of the Rocky Mountains to one west of the same mountains, or vice versa, when ten cents per mile shall be allowed to him; and no officer of the army or navy of the United States shall be paid mileage except for travel actually performed at his own expense, and in obedience to orders.

17 July 1862.

Officers' mileage.

106. Any officer absent from duty with leave, except for sickness or wounds, shall, during his absence, receive half of the pay and allowances prescribed by law, and no more; and any officer absent without leave shall, in addition to the penalties prescribed by law or a court martial, forfeit all pay or allowances during such absence.

3 Mar. 1863 § 31.  
12 Stat. 736.

Pay, &amp;c., of officers on leave.

107. The army ration shall hereafter include pepper, in the proportion of four ounces to every hundred rations.

3 Mar. 1863 § 11.  
12 Stat. 744.

## XV. COMPENSATION FOR PROPERTY DESTROYED.

108. That section two of the act approved March 3d 1849, (a) entitled "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States," shall be construed to include the steamboats and other vessels, and "railroad engines and cars," in the property to be allowed and paid for when destroyed or lost under the circumstances provided for in said act.

3 Mar. 1863 § 5.  
12 Stat. 743.

Act of 1849 to include steamboats and locomotives.

## XVI. RETIRED LIST.

109. Any commissioned officer of the army, or of the marine corps, who shall have served as such for forty consecutive years, may, upon his own application to the president of the United States, be placed upon the list of retired officers, with the pay and emoluments allowed by this act.

3 Aug. 1861 § 15.  
12 Stat. 289.

110. If any commissioned officer of the army, or of the marine corps, shall have become, or shall hereafter become, incapable of performing the duties of his office, he shall be placed upon the retired list and withdrawn from active service and command and from the line of promotion, with the following pay and emoluments, namely: the pay proper of the highest rank held by him at the time of his retirement, whether by staff or regimental commission, and four rations per day, and without any other pay, emoluments or allowances; and the next officer in rank shall be promoted to the place of the retired officer, according to the established rules of the service. And the same rule of promotion shall be applied successively to the vacancies consequent upon the retirement of an officer: *Provided*, That should the brevet lieutenant-general be retired under this act, it shall be without reduction in his current pay, subsistence or allowances: *And provided further*, That there shall not be on the retired list at any one time more than seven per centum of the whole number of officers of the army, as fixed by law.

Ibid. § 16.

What officers may be placed on the retired list.  
Pay and allowances.

111. In order to carry out the provisions of this act, the secretary of war, or secretary of the navy, as the case may be, under the direction and approval of the president of the United States, shall, from time to time, as occasion may require, assemble a board of not more than nine, nor less than five, commissioned officers, two-fifths of whom shall be of the medical staff; the board, except those taken from the medical staff, to be composed, as far as may be, of his seniors in rank, to determine the facts as to the nature and occasion of the disability of such officers as appear disabled to perform such military service, such board being hereby invested with the powers of a court of inquiry and court martial, and their decision shall be subject to like revision as that of such courts by the president of the United States. The board, whenever it finds an officer incapacitated for active service, will report whether, in its judgment, the said incapacity result from long and faithful service, from wounds or injury received in the line of duty, from sickness or exposure therein, or from any other incident of service. If so, and the president approve such judgment, the disabled officer shall thereupon be placed upon the list of retired officers, according to the provisions of this act. If otherwise, and if the president concur in opinion with the board, the officer shall be retired as above, either with his pay proper alone, or with his service rations alone, at the discretion of the president, or he shall be wholly retired from the service, with one year's pay and allowances; and in this last case his name shall be thenceforward omitted from the army register, or navy register, as the case may be: *Provided always*, That the members of the board shall in every case be sworn to an honest and impartial discharge of their duties, and that no officer of the army shall be retired either partially or wholly from the service without having had a fair and full hearing before the board, if, upon due summons, he shall demand it.

Limitation of number.

Ibid. § 17.

Board for examination of disabled officers.

Report.

Members to be sworn.

Hearing.

Ibid. § 18.

Rights and duties of retired officers.

112. The officers partially retired shall be entitled to wear the uniform of their respective grades, shall continue to be borne upon the army register, or navy register, as the case may be, and shall be subject to the rules and articles of war, and to trial by general court martial for any breach of the said articles.



- 3 Aug. 1861 § 25. 113. Retired officers of the army, navy and marine corps may be assigned to such duties as the president may deem them capable of performing, and such as the exigencies of the public service may require.
- 17 July 1862 § 12. 12 Stat. 596. 114. Whenever the name of any officer of the army or marine corps, now in the service, or who may hereafter be in the service of the United States, shall have been borne on the army register or naval register, as the case may be, forty-five years, or he shall be of the age of sixty-two years, it shall be in the discretion of the president to retire him from active service and direct his name to be entered on the retired list of officers of the grade to which he belonged at the time of such retirement; and the president is hereby authorized to assign any officer retired under this section or the act of August 3d 1861, to any appropriate duty; and such officer thus assigned shall receive the full pay and emoluments of his grade while so assigned and employed.
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## XVII. GENERAL PROVISIONS.

- 24 Dec. 1861 § 3. 12 Stat. 331. 115. That the fifth section of the act of 12th June 1858, (a) giving sutlers a lien upon the soldier's pay, be, and the same is hereby, repealed; and all regulations giving sutlers rights and privileges beyond the rules and articles of war, be and the same are hereby abrogated.
- Regulation of sutlers.
- 17 July 1862 § 17. 12 Stat. 596. 116. That the president of the United States be, and hereby is, authorized and requested to dismiss and discharge from the military service, either in the army, navy, marine corps, or volunteer force in the United States service, any officer for any cause which, in his judgment, either renders such officer unsuitable for, or whose dismissal would promote, the public service.
- Dismissal of officers.
- 17 July 1862 § 12. 12 Stat. 599. 117. That the president be, and he is hereby, authorized to receive into the service of the United States, for the purpose of constructing intrenchments, or performing camp service, or any other labor, or any military or naval service for which they may be found competent, persons of African descent; and such persons shall be enrolled and organized under such regulations, not inconsistent with the constitution and laws, as the president may prescribe.
- Employment of negroes.
- Ibid. § 15. 118. All persons who have been or shall be hereafter enrolled in the service of the United States under this act, shall receive the pay and rations now allowed by law to soldiers, according to their respective grades: *Provided*, That persons of African descent, who under this law shall be employed, shall receive ten dollars per month and one ration, three dollars of which monthly pay may be in clothing.
- Pay and rations.
- 4 April 1862 § 1. 12 Stat. 617. 119. Whenever military operations may require the presence of two or more officers of the same grade in the same field or department, the president may assign the command of the forces in such field or department without regard to seniority of rank.
- 12 July 1862 § 1. 12 Stat. 623. 120. That the president of the United States be, and he is hereby, authorized to cause two thousand "medals of honor" to be prepared with suitable emblematic devices, and to direct that the same be presented, in the name of congress, to such non-commissioned officers and privates as shall most distinguish themselves by their gallantry in action, and other soldier-like qualities, during the present insurrection. (b)
- Medals of honor.
- 12 July 1862 § 1. 12 Stat. 624. 121. That the secretary of war be, and he is hereby, authorized to furnish extra clothing to all sick, wounded and other soldiers who may have lost the same by the casualties of war, under such rules and regulations as the department may prescribe, during the existence of the present insurrection.
- Extra clothing to sick and wounded soldiers.
- 3 Mar. 1863 § 23. 12 Stat. 735. 122. The clothes, arms, military outfits and accoutrements furnished by the United States to any soldier, shall not be sold, bartered, exchanged, pledged, loaned or given away; and no person, not a soldier or duly authorized officer of the United States, who has possession of any such clothes, arms, military outfits or accoutrements, furnished as aforesaid, and which have been the subjects of any such sale, barter, exchange, pledge, loan or gift, shall have any right, title or interest therein; but the same may be seized and taken wherever found by any officer of the United States, civil or military, and shall thereupon be delivered to any quartermaster or other officer authorized to receive the same; and the possession of any such clothes, arms, military outfits or accoutrements, by any person not a soldier or officer of the United States, shall be *prima facie* evidence of such a sale, barter, exchange, pledge, loan or gift, as aforesaid.
- Clothing, arms, &c., in possession of others than soldiers may be seized.
- Ibid. § 24. 123. Every person not subject to the rules and articles of war who shall procure or entice, or attempt to procure or entice, a soldier in the service of the United States to desert; (c) or who shall harbor, conceal or give employment to a deserter, or carry him
- Penalty for enticing soldiers to desert.

(a) 11 Stat. 336.

(b) See act 3 March 1863 § 6. 12 Stat. 751.

(c) Where the prisoner, in order to induce one H. to enlist, made representations to him as to the means and facilities of deserting, and after he had enlisted received the whole of his bounty money, and at the times when he made such representations and received the money, he believed they would be likely

to cause H. to desert, and they did cause him to desert, the prisoner may be deemed to have procured or enticed him to desert, within the meaning of the statute. It is not necessary, in order to warrant a conviction, that the prisoner should have wished or intended that H. should desert. *United States v. Clark*, 25 Law Rep. 345.

away, or aid in carrying him away, knowing him to be such; or who shall purchase from any soldier his arms, equipments, ammunition, uniform, clothing or any part thereof; and any captain or commanding officer of any ship or vessel, or any superintendent or conductor of any railroad, or any other public conveyance, carrying away any such soldier as one of his crew or otherwise, knowing him to have deserted, or shall refuse to deliver him up to the orders of his commanding officer, shall, upon legal conviction, be fined, at the discretion of any court having cognisance of the same, in any sum not exceeding five hundred dollars, and he shall be imprisoned not exceeding two years nor less than six months.

3 March 1862.  
For purchasing arms, &c.  
For receiving deserters on board of ship, &c.

124. The commanders of regiments and of batteries in the field are hereby authorized and empowered to grant furloughs, for a period not exceeding thirty days at any one time, to five per centum of the non-commissioned officers and privates, for good conduct in the line of duty, and subject to the approval of the commander of the forces of which such non-commissioned officers and privates form a part.

Ibid. § 32.  
Furloughs.

125. Details to special service shall only be made with the consent of the commanding officer of forces in the field; and enlisted men, now or hereafter detailed to special service, shall not receive any extra pay for such services beyond that allowed to other enlisted men.

Ibid. § 35.  
Details for special service.

126. All payments of advance bounty made to enlisted men who have been discharged before serving out the term required by law for its payment in full, shall be allowed in the settlement of the accounts of paymasters at the treasury; but hereafter, in all such cases, the amount so advanced shall be charged against the enlisted men, unless the discharge be upon surgeon's certificate for wounds received, or sickness incurred, since their last enlistment.

3 Mar. 1863 § 6.  
12 Stat. 743.  
Advance bounty to be credited to paymasters.  
To be charged to enlisted men.

127. The officers of the medical department shall unite with the line officers of the army under such rules and regulations as shall be prescribed by the secretary of war, in supervising the cooking within the same, as an important sanitary measure; and said medical department shall promulgate to its officers such regulations and instructions as may tend to insure the proper preparation of the ration of the soldier.

Ibid. § 8.  
Supervision of cooking.

128. Cooks shall be detailed, in turn, from the privates of each company of troops in the service of the United States, at the rate of one cook for each company numbering less than thirty men, and two cooks for each company numbering over thirty men, who shall serve ten days each.

Ibid. § 9.  
Details for cooking.

129. That the president of the United States be, and he is hereby, authorized to cause to be enlisted, for each cook, two under-cooks of African descent, who shall receive for their full compensation ten dollars per month, and one ration per day; three dollars of said monthly pay may be in clothing.

Ibid. § 10.  
Enlistment of negro cooks.

#### XVIII. VOLUNTEERS.

130. That the president be and he is hereby authorized to accept the services of volunteers, either as cavalry, infantry or artillery, in such numbers, not exceeding five hundred thousand, as he may deem necessary, for the purpose of repelling invasion, suppressing insurrection, enforcing the laws, and preserving and protecting the public property: (a) *Provided*, That the services of the volunteers shall be for such time as the president may direct, not exceeding three years nor less than six months, and they shall be disbanded at the end of the war. And all provisions of law applicable to three years' volunteers shall apply to two years' volunteers, and to all volunteers who have been or may be accepted into the service of the United States for a period not less than six months in the same manner as if such volunteers were specially named. Before receiving into service any number of volunteers exceeding those now called for and accepted, the president shall from time to time issue his proclamation stating the number desired, either as cavalry, infantry or artillery, and the states from which they are to be furnished, having reference in any such requisition to the number then in service from the several states, and to the exigencies of the service at the time, and equalizing as far as practicable the number furnished by the several states, according to federal population.

22 July 1861 § 1.  
12 Stat. 238.  
Services of volunteers accepted.  
Term of service.

131. The said volunteers shall be subject to the rules and regulations governing the army of the United States, and they shall be formed by the president into regiments of infantry, with the exception of such numbers for cavalry and artillery as he may direct, not to exceed the proportion of one company of each of those arms to every regiment of infantry, and to be organized as in the regular service. Each regiment of infantry shall have one colonel, one lieutenant-colonel, one major, one adjutant (a lieu-

Ibid. § 2.  
To be subject to articles of war.  
Organization of regiments.

(a) One who has offered himself as a volunteer into the service of the United States, who has been received and accepted as such, and who has been armed, subsisted, and paid by the United States as a volunteer, and has rendered service, cannot deny the validity of his enlistment, or contract of his engagement for the number of years specified in the muster-roll, upon any ground of informality of proceeding in the enlistment. *Stevens's Case*, 24 Law Rep. 208; and see *Commonwealth v. Rogers*, 10 Pittsburgh

Leg. J. 178. The acts of congress prohibiting the enlistment of minors in the army, without the consent of their parents, have no application to enlistment as a volunteer; it is a state contract, and governed by the laws of the several states. *Lanahan v. Birge*, 20 Leg. Int. 276. And see *Dew's Case*, 25 Law Rep. 538. *Contra*, *Com. v. Archer*, 9 Law Rep. 465. *Kimball's Case*, Ibid. 509. *Bamfield v. Abbot*, Ibid. 510. *Kinneston's Case*, Ibid. 548.

22 July 1861.

tenant), one quartermaster (a lieutenant), one surgeon and one assistant surgeon, one sergeant-major, one regimental quartermaster-sergeant, one regimental commissary-sergeant, one hospital steward [two principal musicians, and twenty-four musicians for a band], (a) and shall be composed of ten companies, each company to consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, eight corporals, two musicians, one wagoner, and from sixty-four to eighty-two privates.

Ibid. § 3.

Divisions and brigades.

132. These forces, when accepted as herein authorized, shall be organized into divisions of three or more brigades each; and each division shall have a major-general, three aides-de-camp and one assistant adjutant-general with the rank of major. Each brigade shall be composed of four or more regiments, and shall have one brigadier-general, two aides-de-camp, one assistant adjutant-general with the rank of captain, one surgeon, one assistant quartermaster and one commissary of subsistence.

Ibid. § 4.

Major-generals and brigadier-generals.

133. The president shall be authorized to appoint, by and with the advice and consent of the senate, for the command of the forces provided for in this act, a number of major-generals, not exceeding six, and a number of brigadier-generals, not exceeding eighteen, and the other division and brigade officers required for the organization of these forces, except the aides-de-camp, who shall be selected by their respective generals from the officers of the army or volunteer corps: *Provided*, That the president may select the major-generals and brigadier-generals provided for in this act from the line or staff of the regular army, and the officers so selected shall be permitted to retain their rank therein. The governors of the states furnishing volunteers under this act shall commission the field, staff and company officers requisite for the said volunteers; but in cases where the state authorities refuse or omit to furnish volunteers at the call or on the proclamation of the president, and volunteers from such states offer their services under such call or proclamation, the president shall have power to accept such services, and to commission the proper field, staff and company officers.

May be selected from the army.

Commissioning of field, staff, and company officers.

Ibid. § 5.

Pay and allowances.

134. The officers, non-commissioned officers and privates, organized as above set forth, shall in all respects be placed on the footing, as to pay and allowances, of similar corps of the regular army: *Provided*, That the allowances of non-commissioned officers and privates for clothing, when not furnished in kind, shall be three dollars and fifty cents per month, and that each company officer, non-commissioned officer, private, musician and artificer of cavalry shall furnish his own horse and horse equipments, [and shall receive forty cents per day for their use and risk, except that in case the horse shall become disabled or shall die, the allowance shall cease until the disability be removed or another horse be supplied.] (b) Every volunteer non-commissioned officer, private, musician and artificer, who enters the service of the United States under this act, shall be paid at the rate of fifty cents in lieu of subsistence, and if a cavalry volunteer, twenty-five cents additional, in lieu of forage, for every twenty miles of travel from his place of enrolment to the place of muster—the distance to be measured by the shortest usually travelled route; and when honorably discharged an allowance at the same rate, from the place of his discharge to his place of enrolment, and in addition thereto if he shall have served for a period of two years or during the war, if sooner ended, the sum of one hundred dollars: *Provided*, That such of the companies of cavalry herein provided for as may require it, may be furnished with horses and horse equipments in the same manner as in the United States army.

Commutation of subsistence, forage, and travel.

Bounty on discharge.

Ibid. § 6.

Provision for volunteers wounded or disabled in the service.

135. Any volunteer who may be received into the service of the United States under this act, and who may be wounded or otherwise disabled in the service, shall be entitled to the benefits which have been or may be conferred on persons disabled in the regular service, and the widow, if there be one, and if not, the legal heirs, of such as die or may be killed in service, in addition to all arrears of pay and allowances, shall receive the sum of one hundred dollars. (c)

Ibid. § 7.

Pay of musicians.

136. The bands of the regiments of infantry and of the regiments of cavalry shall be paid as follows: one-fourth of each shall receive the pay and allowances of sergeants of engineer soldiers; one-fourth those of corporals of engineer soldiers; and the remaining half those of privates of engineer soldiers of the first class. (d)

Ibid. § 8.

Wagoners, saddlers and non-commissioned staff officers.

137. The wagoners and saddlers shall receive the pay and allowances of corporals of cavalry. The regimental commissary-sergeant shall receive the pay and allowances of regimental sergeant-major, and the regimental quartermaster-sergeant shall receive the pay and allowances of a sergeant of cavalry.

(a) Regimental bands to be mustered out of service by act 17 July 1862, § 5. 12 Stat. 594.

(b) See *infra* 182.

(c) The act 11 July 1862 provides "that said bounty shall be paid to the following persons, and in the order following, and to no other person, to wit: first, to the widow of such deceased soldier, if there be one; second, if there be no widow, then to the children of such deceased soldier, share and share alike; third, if such soldier left neither a widow, or child, or children, then,

and in that case, such bounty shall be paid to the following persons, provided they be residents of the United States, to wit: first, to his father; or if he shall not be living, or has abandoned the support of his family, then to the mother of such soldier; and if there be neither father nor mother as aforesaid, then such bounty shall be paid to the brothers and sisters of the deceased soldier, resident as aforesaid." 12 Stat. 585.

(d) See act 17 July 1862, § 5. 12 Stat. 594.

138. There shall be allowed to each regiment one chaplain, who shall be appointed by the regimental commander, on the vote of the field officers and company commanders on duty with the regiment at the time the appointment shall be made. The chaplain so appointed must be a regular ordained minister of a Christian denomination,<sup>(a)</sup> and shall receive the pay and allowances of a captain of cavalry; and shall be required to report to the colonel commanding the regiment to which he is attached, at the end of each quarter, the moral and religious condition of the regiment, and such suggestions as may conduce to the social happiness and moral improvement of the troops.

22 July 1861 § 9.  
Chaplains.

139. The general commanding a separate department or a detached army, is hereby authorized to appoint a military board or commission of not less than three nor more than five officers, whose duty it shall be to examine the capacity, qualifications, propriety of conduct and efficiency of any commissioned officer of volunteers within his department or army, who may be reported to the board or commission; and upon such report, if adverse to such officer, and if approved by the president of the United States, the commission of such officer shall be vacated: *Provided always*, That no officer shall be eligible to sit on such board or commission whose rank or promotion would in any way be affected by its proceedings, and two members at least, if practicable, shall be of equal rank of the officer being examined.

Ibid. § 10.  
Board for examination of commissioned officers.

140. All letters written by soldiers in the service of the United States, may be transmitted through the mails without prepayment of postage, under such regulations as the post office department may prescribe, the postage thereon to be paid by the recipients.

Ibid. § 11.  
Soldiers' letters.

141. That the secretary of war be and he is hereby authorized and directed to introduce among the volunteer forces in the service of the United States, the system of allotment tickets now used in the navy, or some equivalent system, by which the family of the volunteer may draw such portions of his pay as he may request.

Ibid. § 12.  
Allotments to families of soldiers.

142. That the president of the United States be and he is hereby authorized to accept the services of volunteers, either as cavalry, infantry or artillery, in such numbers as the exigencies of the public service may in his opinion demand, to be organized as authorized by the act of the 22d of July 1861: *Provided*, That the number of troops hereby authorized shall not exceed five hundred thousand.

25 July 1861 § 1.  
12 Stat. 274.  
Additional volunteer force authorized.

143. The volunteers authorized by this act shall be armed as the president may direct; they shall be subject to the rules and articles of war, and shall be upon the footing, in all respects, with similar corps of the United States army, and shall be mustered into the service for "during the war."

Ibid. § 2.  
To be mustered in for the war.

144. The president shall be authorized to appoint, by and with the advice and consent of the senate, for the command of the volunteer forces, such number of major-generals and of brigadier-generals as may, in his judgment, be required for their organization.<sup>(b)</sup>

Ibid. § 3.  
General officers.

145. The president, in accepting and organizing volunteers under the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22d 1861, may accept the service of such volunteers without previous proclamation, and in such numbers from any state or states as, in his discretion, the public service may require.

31 July 1861 § 2.  
12 Stat. 285.  
Volunteers may be accepted without previous proclamation.

146. Vacancies hereafter occurring among the commissioned officers of the volunteer regiments shall be filled by the governors of the states respectively in the same manner as original appointments. And so much of the 10th section of the act approved July 22d 1861, as is inconsistent herewith, be and the same is hereby repealed.

6 Aug. 1861 § 3.  
12 Stat. 318.  
Appointment of commissioned officers to fill vacancies.

147. The president of the United States shall appoint, for each state having volunteers in the United States service, not exceeding three persons, who shall be authorized by the president's commission to visit the several departments of the army in which volunteers from their respective states may be, and there procure from said volunteers from time to time their respective allotments of their pay to their families or friends, duly certified in writing, and by them, or by some commissioned officer of such department, attested in pursuance of such orders as may be made for that purpose by the secretary of war, and upon which certified allotment the several paymasters shall, at each regular payment to troops, give drafts payable in the city of New York, to the order of such persons to whom said allotments were or may be made.

24 Dec. 1861 § 1.  
12 Stat. 331.  
Commissioners to procure allotments of pay for families of volunteers.

148. The persons appointed as commissioners to carry into effect the preceding section of this act, shall receive no pay or emoluments whatever from the treasury of the United States.

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Payment to be made on such allotments.

Ibid. § 2.

149. The inspector-generals of the army shall constitute a board of officers, whose duty it shall be to prepare, immediately after the passage of this act, a list or schedule of the following articles, which may be sold by sutlers to the officers and soldiers of the volunteer service, to wit: Apples, dried apples, oranges, figs, lemons, butter, cheese,

19 Mar. 1862 § 1.  
12 Stat. 371.  
Board to prepare list of articles for sutlers.

(a) See *supra* 60.

(b) By act 5 July 1862, limited to 40 major-generals, and 200 brigadier-generals. 12 Stat. 506. See *infra* 166.

19 March 1862. milk, syrup, molasses, raisins, candles, crackers, wallets, brooms, comforters, boots, pocket looking-glasses, pins, gloves, leather, tin washbasins, shirt buttons, horn and brass buttons, newspapers, books, tobacco, cigars, pipes, matches, blacking, blacking brushes, clothes brushes, tooth brushes, hair brushes, coarse and fine combs, emery, crocus, pocket handkerchiefs, stationery, armor oil, sweet oil, rotten stone, razor strops, razors, shaving soap, soap, suspenders, scissors, shoestrings, needles, thread, knives, pencils and Bristol brick. Said list or schedule shall be subject, from time to time, to such revision and change as, in the judgment of the said board, the good of the service may require:

Liquors not to be sold.

*Provided always*, That no intoxicating liquors shall at any time be contained therein, or the sale of such liquors be in any way authorized by said board. A copy of said list or schedule, and of any subsequent change therein, together with a copy of this act, shall be, without delay, furnished by said board to the commanding officer of each brigade, and of each regiment not attached to any brigade, in the volunteer service, and also to the adjutant-general of the army.

*Ibid.* § 2.

Prices to be fixed by another board.

150. Immediately upon the receipt from said board of said list or schedule and copy of this act by the commanding officer of any such brigade, the acting brigadier-general, surgeon, quartermaster and commissary of said brigade shall constitute a board of officers whose duty it shall be to affix to each article in said list or schedule a price for said brigade, which shall be by them forthwith reported to the commanding officer of the division, if any, to which said brigade is attached, for his approval, with or without modification, and who shall, after such approval, report the same to the inspector-generals, and the same, if not disapproved by them, shall be the price not exceeding which said articles may be sold to the officers and soldiers in said brigade. Whenever any brigade shall not be attached to a division, said prices shall then be reported directly to the inspector-generals, and, if approved by them, shall be the price fixed for such brigade as aforesaid; and whenever any regiment shall be unattached to any brigade, the acting colonel, lieutenant-colonel, major and captains thereof shall constitute the board of officers by whom the price of said articles shall be fixed for said regiment, in the same manner as is herein provided for an unattached brigade. The prices so fixed may be changed by said boards respectively from time to time, not oftener than once in thirty days, but all changes therein shall be reported in like manner and for the same purpose as when originally fixed.

*Ibid.* § 3.

Selection of sutlers.

151. It shall be the duty of the commanding officer of each brigade, immediately upon receipt of a copy of said list or schedule and copy of this act, as herein provided, to cause one sutler for each regiment in his brigade to be selected by the commissioned officers of such regiment, which selection shall be by him reported to the adjutant-general of the army; the person so selected shall be sole sutler of said regiment. And the commanding officer of each unattached regiment shall, in like manner, cause a selection of a sutler to be made for said regiment, who shall be sole sutler of said regiment. Any vacancy in the office of sutler from any cause shall be filled in the same way as an original appointment.

*Ibid.* § 4.

Lien on soldiers' pay.

Limitation.

Penalty for allowing a greater amount.

152. The sutlers chosen in the manner provided in the preceding section shall be allowed a lien only upon the pay of the officers, non-commissioned officers and privates of the regiment for which he has been chosen, or those stationed at the post to which he has been appointed, and for no greater sum than one-sixth of the monthly pay of each officer, non-commissioned officer or private for articles sold during each month; and the amount of one-sixth or less than one-sixth of the pay of such officer, non-commissioned officer or private, so sold to him by the sutler, shall be charged on the pay-rolls of such officer, non-commissioned officer or private, and deducted from his pay, and paid over by the paymaster to the sutler of the regiment or military post, as the case may be: *Provided*, That if any paymaster in the service of the United States shall allow or pay any greater sum to any sutler than that hereby authorized to be retained from the pay of the officers, non-commissioned officers, musicians and privates, for articles sold by any sutler during any one month, then the amount so allowed or paid by the paymaster shall be charged against the said paymaster, and deducted from his pay, and returned to the officer, non-commissioned officer, musician or private against whom the amount was originally charged. And any captain or lieutenant commanding a company who may certify any pay-roll bearing a charge in favor of the sutler against any officer, non-commissioned officer, musician or private, larger or greater than one-sixth of the monthly pay of such officer, non-commissioned officer, musician or private, shall be punished at the discretion of a court martial: *Provided, however*, That sutlers shall be allowed to sell only the articles designated in the list or schedule provided in this act, and none others, and at prices not exceeding those affixed to said articles, as herein provided: *And provided further*, That the sutlers shall have no legal claim upon any officer, non-commissioned officer, musician or private, to an amount exceeding one-sixth

Claim for greater amount to be invalid.

of his pay for articles sold during any month. He shall keep said list or schedule, together with a copy of this act, fairly written or printed, posted up in some conspicuous part of the place where he makes said sales, and where the same can be easily read by any person to whom he makes said sales.

19 March 1862.

Copy of act to be posted.

153. It shall be the duty of the inspector-generals to cause the place of sale and articles kept for that purpose, by said sutlers, to be inspected from time to time, once in fifteen days at least, by some competent officer, specially detailed for that duty; and such changes in said place, or in the quality and character of the articles mentioned in said list or schedule, so kept as shall be required by said officer, shall be conformed to by each sutler. And such officer shall report each inspection to the inspector-generals.

Ibid. § 5.

Inspection of place of sale and articles.

154. No person shall be permitted to act as sutler unless appointed according to the provisions of this act; nor shall any person be sutler for more than one regiment; nor shall any sutler farm out or underlet the business of sutling, or the privileges granted to him by his appointment; nor shall any officer of the army receive from any sutler any money or other presents, nor be interested in any way in the stock, trade or business of any sutler, and any officer receiving such presents, or being thus interested, directly or indirectly, shall be punished at the discretion of a court martial. No sutler shall sell to an enlisted man on credit to a sum exceeding one-fourth of his monthly pay within the same month; nor shall the regimental quartermasters allow the use of army wagons for sutlers' purposes; nor shall the quartermasters' conveyances be used for the transportation of sutlers' supplies.

Ibid. § 6.

Business of sutlers regulated.

155. Any sutler who shall violate any of the provisions of this act shall, by the colonel, with consent of the council of administration, be dismissed from the service, and be ineligible to a reappointment as sutler in the service of the United States.

Ibid. § 7.

Penalty for violation.

156. Company officers of volunteers shall be paid on the muster and pay-rolls of their company, party or detachment, and not otherwise, except when such officer may be on detached service without troops, or on leave of absence.

18 June 1862 § 1.  
12 Stat. 431.

157. There shall be appointed by the president, by and with the advice and consent of the senate, forty surgeons and one hundred and twenty assistant surgeons of volunteers, who shall have the rank, pay and emoluments of officers of corresponding grades in the regular army: *Provided*, That no one shall be appointed to any position under this act unless he shall previously have been examined by a board of medical officers to be appointed by the secretary of war, and that vacancies in the grade of surgeon shall be filled by selection from the grade of assistant surgeon on the ground of merit only: *And provided further*, That this act shall continue in force only during the existence of the present rebellion.

2 July 1862 § 1.  
12 Stat. 502.Additional medical officers.  
Qualifications.

Promotions.

158. Brigade surgeons shall be known and designated as surgeons of volunteers, and shall be attached to the general medical staff under the direction of the surgeon-general; and hereafter such appointments for the medical service of the army shall be appointed surgeons of volunteers.

Ibid. § 2.

Surgeons of volunteers.

159. Instead of "one assistant surgeon," as provided by the 2d section of the act of July 22d 1861,(a) each regiment of volunteers in the service of the United States shall have two assistant surgeons.

Ibid. § 3.

160. Section five of the act "to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22d 1861,(b) and section five of the act "to increase the present military establishment of the United States," approved July 29th 1861,(c) shall be so construed as to allow twenty-five dollars of the bounty of one hundred dollars therein provided to be paid immediately after enlistment to every soldier of the regular and volunteer forces hereafter enlisted during the continuance of the existing war.

5 July 1862 § 6.  
12 Stat. 509.

Bounty on enlistment.

161. Each brigade in the volunteer service may have sixteen musicians as a band, who shall receive the pay and allowances now provided by law for regimental bands,(d) except the leader of the band, who shall receive forty-five dollars per month, with the emoluments and allowances of a quartermaster-sergeant.

17 July 1862 § 6.  
12 Stat. 502.

Brigade bands.

162. So much of the fifth section of the act approved July 22d 1861,(e) as allows forty cents per day for the use and risk of the horses of company officers of cavalry, and the tenth section of the aforesaid act, approved August 3d 1861,(g) be and the same are hereby repealed.

Ibid. § 10.

Allowance for risk of horses abolished.

163. The different regiments and independent companies heretofore mustered into the service of the United States as volunteer engineers, pioneers or sappers and miners, under the orders of the president or secretary of war, or by authority of the commanding general of any military department of the United States, or which, having been

Ibid. § 20.

Pay and emoluments of engineers.

(a) *Supra* 131.  
(b) *Supra* 134.  
(c) *Supra* 5.

(d) *Supra* 136.  
(e) *Supra* 134.  
(g) 12 Stat. 288.

- 17 July 1862. mustered into the service as infantry, shall have been reorganized and employed as engineers, pioneers or sappers and miners, shall be and the same are hereby recognised and accepted as volunteer engineers, on the same footing, in all respects, in regard to their organization, pay and emoluments, as the corps of engineers of the regular army of the United States, and they shall be paid for their services, already performed, as is now provided by law for the payment of officers and non-commissioned officers and privates of the engineer corps of the regular army.
- 17 July 1862 § 3.  
12 Stat. 598.  
Additional volunteer force.  
Bounty.
164. That the president be and he is hereby authorized, in addition to the volunteer forces which he is now authorized by law to raise, to accept the services of any number of volunteers, not exceeding one hundred thousand, as infantry, for a period of nine months, unless sooner discharged. And every soldier who shall enlist under the provisions of this section shall receive his first month's pay, and also twenty-five dollars as bounty, upon the mustering of his company or regiment into the service of the United States. And all provisions of law relating to volunteers enlisted in the service of the United States for three years or during the war, except in relation to bounty, shall be, and the same are extended to, and are hereby declared to embrace, the volunteers to be raised under the provisions of this section.
- Ibid. § 4.  
Term of service.
165. That, for the purpose of filling up the regiments of infantry now in the United States service, the president be and he hereby is authorized to accept the services of volunteers, in such numbers as may be presented for that purpose, for twelve months, if not sooner discharged. And such volunteers, when mustered into the service, shall be in all respects upon a footing with similar troops in the United States service, except as to service bounty, which shall be fifty dollars, one half of which to be paid upon their joining their regiments, and the other half at the expiration of their enlistment.
- 2 March 1863 § 1.  
12 Stat. 699.  
Increase of general officers.
166. In addition to the four major-generals and nine brigadier-generals for the regular army, and the forty major-generals and two hundred brigadier-generals for the volunteer service, authorized by the existing laws, there may be appointed thirty major-generals and seventy-five brigadier-generals for forces in the service of the United States other than the regular army: *Provided*, That the officers to be appointed under this act shall be selected from those who have been conspicuous for gallant or meritorious conduct in the line of duty.
- 3 March 1863 § 13.  
12 Stat. 734.  
Bounty for re-enlistments.
167. Such of the volunteers and militia now in the service of the United States as may re-enlist to serve one year, unless sooner discharged, after the expiration of their present term of service, shall be entitled to a bounty of fifty dollars, one-half of which to be paid upon such re-enlistment, and the balance at the expiration of the term of re-enlistment; and such as may re-enlist to serve for two years, unless sooner discharged, after the expiration of their present term of enlistment, shall receive, upon such re-enlistment, twenty-five dollars of the one hundred dollars bounty for enlistment, provided by the fifth section of the act approved 22d of July 1861, entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property." (a)
- Ibid. § 19.  
Consolidation of companies.
168. Whenever a regiment of volunteers of the same arm, from the same state, is reduced to one-half the maximum number prescribed by law, the president may direct the consolidation of the companies of such regiment: *Provided*, That no company so formed shall exceed the maximum number prescribed by law. When such consolidation is made the regimental officers shall be reduced in proportion to the reduction in the number of companies.
- Ibid. § 20.
169. Whenever a regiment is reduced below the minimum number allowed by law, no officers shall be appointed in such regiment beyond those necessary for the command of such reduced number.
- 3 March 1863 § 7.  
12 Stat. 743.  
Bounty on re-enlistment in certain cases.
170. Upon any requisition hereafter being made by the president of the United States for militia, any person who shall have volunteered or been drafted for the service of the United States for the term of nine months or a shorter period, may enlist into a regiment from the same state to serve for the term of one year, and any person so enlisting shall be entitled to and receive a bounty of fifty dollars, to be paid in time and manner provided by the act of July 22d 1861, for the payment of the bounty provided for by that act. (a)
- 3 March 1863 § 1.  
12 Stat. 758.  
Bounty to wounded soldiers on discharge.
171. Every non-commissioned officer, private or other person who has been or shall hereafter be discharged from the army of the United States, within two years from the date of their enlistment, by reason of wounds received in battle, shall be entitled to receive the same bounty as is granted or may be granted to the same classes of persons who are discharged after a service of two years; and all acts and parts of acts inconsistent with this are hereby repealed.

## XIX. CONSCRIPTION.

172. All able-bodied male citizens of the United States, and persons of foreign birth who shall have declared on oath their intention to become citizens under and in pursuance of the laws thereof, between the ages of twenty and forty-five years, except as hereinafter excepted, are hereby declared to constitute the national forces, and shall be liable to perform military duty in the service of the United States, when called out by the president for that purpose. (a)

3 March 1863 § 1.  
12 Stat. 731.

What persons to be liable to conscription.

173. That the following persons be and they are hereby excepted and exempt from the provisions of this act, and shall not be liable to military duty under the same, to wit: such as are rejected as physically or mentally unfit for the service; also First, the vice president of the United States, the judges of the various courts of the United States, the heads of the various executive departments of the government, and the governors of the several states. Second, the only son liable to military duty of a widow dependent upon his labor for support. Third, the only son of aged or infirm parent or parents dependent upon his labor for support. (b) Fourth, where there are two or more sons of aged or infirm parents subject to draft, the father, or, if he be dead, the mother may elect which son shall be exempt. (c) Fifth, the only brother of children not twelve years old, having neither father nor mother, dependent upon his labor for support. Sixth, the father of motherless children under twelve years of age, dependent upon his labor for support. (d) Seventh, where there are a father and sons in the same family and household, and two of them are in the military service of the United States as non-commissioned officers, musicians or privates, the residue of such family and household, not exceeding two, shall be exempt. (e) And no persons but such as are herein excepted shall be exempt: (g) *Provided, however,* That no person who has been convicted of any felony shall be enrolled or permitted to serve in said forces.

Ibid. § 2.

Who to be exempt.

174. The national forces of the United States not now in the military service, enrolled under this act, shall be divided into two classes: the first of which shall comprise all persons subject to do military duty between the ages of twenty and thirty-five years, and all unmarried persons subject to do military duty above the age of thirty-five and under the age of forty-five; (h) the second class shall comprise all other persons subject to do military duty, and they shall not in any district be called into the service of the United States until those of the first class shall have been called.

Ibid. § 3.

Classification.

175. For greater convenience in enrolling, calling out and organizing the national forces, and for the arrest of deserters and spies of the enemy, the United States shall be divided into districts, of which the District of Columbia shall constitute one, each territory of the United States shall constitute one or more, as the president shall direct, and each congressional district of the respective states, as fixed by a law of the state next preceding the enrolment, shall constitute one: *Provided,* That in states which have not by their laws been divided into two or more congressional districts, the president of the United States shall divide the same into so many enrolment districts as he may deem fit and convenient.

Ibid. § 4.

Enrolment districts.

176. For each of said districts there shall be appointed by the president a provost-marshal, with the rank, pay and emoluments of a captain of cavalry, or an officer of said rank shall be detailed by the president, who shall be under the direction and subject to the orders of a provost-marshal general, appointed or detailed by the presi-

Ibid. § 5.

Provost-marshal.

Provost-marshal general.

(a) In New York, it has been determined, that this act is unconstitutional, on the ground, that it attempts to create a *national militia*, a power not granted to the federal government, which is only empowered to raise an army and navy, whilst the militia is but a *state* force, though liable to be called into the service of the United States, by the president, in case of emergency. The People v. Stephens, before McCunn, J., at chambers, 14 July 1863. In Pennsylvania, however, Cadwalader, J., decided that the act was constitutional. Antrim's Case, 20 Leg. Int. 300.

(b) The only son of aged or infirm parent or parents is not exempt unless his parent or parents are dependent on his labor for their support. If he is in a condition to support, and does support them without his personal labor for that purpose, he is subject to draft, because he is in condition to perform military service without depriving his parents of the support the law designs to secure them. The parents need not be wholly dependent on the labor of their son for support. If they are so dependent for the principal part of their support, the right to exemption arises.

In the case of a widow having four sons, three of whom are already in the military service, the fourth is exempt, provided his mother is dependent on his labor for support.

In the case of a widow having two sons, one of whom is already in the military service, and the other has been drafted, the latter is exempt, as the only son liable to military duty in the sense of the act. Opinion of Holt, Judge Advocate General, July 1863.

(c) In the case of aged or infirm parents having two or more sons subject to military duty, election of the son to be exempted must be made before the draft, and his name should not then appear in the draft box. If one of only two sons of such parents is already in military service, the other is exempt, provided his parents are dependent on his labor for their support.

In the case of aged and infirm parents having two sons subject to military duty, the father, or if he be dead, the mother may elect which of them shall be exempt. The right of this exemption

does not rest upon the parents' dependence on the labor of their sons for support. The law does not contemplate any such dependence. Opinion of Holt, Judge Advocate General, July 1863.

(d) The children of an insane mother, who may at any time recover her reason, cannot, in the sense of the law, or with any propriety of language, be termed motherless children. The father of such, though they may be dependent on his labor for their support, cannot, therefore, claim exemption from the draft. The case is a hard one, and would probably have been provided for had it been foreseen. It is, however, the law as it is, and not as it may be supposed it ought to be, that is to be so enforced. Opinion of Holt, Judge Advocate General, July 1863.

(e) In the case of a father having four sons, two of whom have died in the military service, it seems clear that the remaining two are not exempt from the draft. Before such exemption can be allowed, it must be shown that the father has not had two sons in the military service, so the law is written. Congress might well have accepted the loss of two sons in the field as equivalent to their continuance in the service, and therefore securing the same privileges to their family; but this has not been done. To hold otherwise would not be interpretation but legislation. Opinion of Holt, Judge Advocate General, July 1863.

(f) Persons having conscientious scruples in regard to bearing arms are not on that account exempt. They are not found in the list of exempted classes, and the act expressly declares that no persons except those enumerated in that list shall be exempt. The Society of Friends, and those entertaining similar sentiments, if drafted, may find relief from their scruples in the employment of substitutes, or in the payment of the \$300. Opinion of Holt, Judge Advocate General, July 1863.

(h) If a married man, over 35 years of age, be enrolled and drafted in the first class, he may be discharged, by a federal court, on *habes corpus*. Stingle's Case, Dist. Court, Penn., Cadwalader, J., 4 Sept. 1863. MS.



2 March 1863.

dent of the United States; whose office shall be at the seat of government, forming a separate bureau of the war department, and whose rank, pay and emoluments shall be those of a colonel of cavalry.

Ibid. § 6.

Duties of provost-marshall general.

177. It shall be the duty of the provost-marshal general, with the approval of the secretary of war, to make rules and regulations for the government of his subordinates; to furnish them with the names and residences of all deserters from the army, or any of the land forces in the service of the United States, including the militia, when reported to him by the commanding officers; to communicate to them all orders of the president in reference to calling out the national forces; to furnish proper blanks and instructions for enrolling and drafting; to file and preserve copies of all enrolment lists; to require stated reports of all proceedings on the part of his subordinates; to audit all accounts connected with the service under his direction; and to perform such other duties as the president may prescribe in carrying out the provisions of this act.

Ibid. § 7.

Duties of provost-marshals.

178. It shall be the duty of the provost-marshals to arrest all deserters, whether regulars, volunteers, militiamen or persons called into the service under this or any other act of congress, wherever they may be found, and to send them to the nearest military commander or military post; (a) to detect, seize and confine spies of the enemy, who shall without unreasonable delay be delivered to the custody of the general commanding the department in which they may be arrested, to be tried as soon as the exigencies of the service permit; to obey all lawful orders and regulations of the provost-marshal general, and such as may be prescribed by law concerning the enrolment and calling into service of the national forces.

Ibid. § 8.

Boards of enrolment.

179. In each of said districts there shall be a board of enrolment, to be composed of the provost-marshal as president and two other persons, to be appointed by the president of the United States, one of whom shall be a licensed and practising physician and surgeon.

Ibid. § 9.

Sub districts.

Enrolling officers.

180. It shall be the duty of the said board to divide the district into sub-districts of convenient size, if they shall deem it necessary, not exceeding two, without the direction of the secretary of war, and to appoint on or before the tenth day of March next, and in each alternate year thereafter, an enrolling officer for each sub-district, and to furnish him with proper blanks and instructions; and he shall immediately proceed to enrol all persons subject to military duty, noting their respective places of residence, ages on the first day of July following, and their occupation, and shall, on or before the first day of April, report the same to the board of enrolment, to be consolidated into one list, a copy of which shall be transmitted to the provost-marshal general on or before the first day of May succeeding the enrolment: *Provided nevertheless*, That if from any cause the duties prescribed by this section cannot be performed within the time specified, then the same shall be performed as soon thereafter as practicable.

Ibid. § 10.

181. The enrolment of each class shall be made separately, and shall only embrace those whose ages shall be on the first day of July thereafter between twenty and forty-five years.

Ibid. § 11.

Persons enrolled to be liable to military duty.

182. All persons thus enrolled shall be subject for two years after the first day of July succeeding the enrolment, to be called into the military service of the United States, and to continue in service during the present rebellion, not, however, exceeding the term of three years; and when called into service shall be placed on the same footing in all respects as volunteers for three years or during the war, including advance pay and bounty, as now provided by law.

Ibid. § 12.

How draft to be made.

183. Whenever it may be necessary to call out the national forces for military service, the president is hereby authorized to assign to each district the number of men to be furnished by said district; and thereupon the enrolling board shall, under the direction of the president, make a draft of the required number, and fifty per cent. in addition, and shall make an exact and complete roll of the names of the persons so drawn, (b) and of the order in which they were drawn, so that the first drawn may stand first upon the said roll, and the second may stand second, and so on; and the persons so drawn shall be notified of the same, within ten days thereafter, by a written or printed notice, to be served personally, or by leaving a copy at the last place of residence, requiring them to appear at a designated rendezvous to report for duty. In assigning to the districts the number of men to be furnished therefrom, the president shall take into consideration the number of volunteers and militia furnished by and from the several states in which said districts are situated, and the period of their service since the commencement of the present rebellion, and shall so make said assignment as to equalize the numbers

(a) A state court has no power to discharge on *habeas corpus*, from the custody of the provost-marshal, a person arrested for desertion, under this act, although enlisted contrary to law. *Shirk's Case*, 20 Leg. Int. 200. And see *Dew's Case*, 25 Law Rep. 538. *Jordan's Case*, 11 Am. L. R. 749.

(b) If a person liable to military duty be properly enrolled, a

misnomer in the ballot placed in the box will not vitiate the draft. *Spangler's Case*, 11 Am. L. R. 598. But a misnomer in the enrolment will render the draft illegal. *McCall's Case*, 20 Leg. Int. 108. Affirmed in *Robinson's Case*, Dist. Court, Penn., *Cadwalader, J.*, 5 Sept. 1863. MS.

among the districts of the several states, considering and allowing for the numbers already furnished as aforesaid and the time of their service. 3 March 1863.

184. Any person drafted and notified to appear as aforesaid may, on or before the day fixed for his appearance, furnish an acceptable substitute to take his place in the draft; or he may pay to such person as the secretary of war may authorize to receive it such sum, not exceeding three hundred dollars, as the secretary may determine, for the procurement of such substitute; (a) which sum shall be fixed at a uniform rate by a general order made at the time of ordering a draft for any state or territory; and thereupon such person so furnishing the substitute, or paying the money, shall be discharged from further liability under that draft. And any person failing to report after due service of notice as herein prescribed, without furnishing a substitute or paying the required sum therefor shall be deemed a deserter, and shall be arrested by the provost-marshal and sent to the nearest military post for trial by court martial, (b) unless upon proper showing that he is not liable to do military duty, the board of enrolment shall relieve him from the draft. Ibid. § 13. Substitutes may be furnished. Or payment in lieu of service. Absentees to be deemed deserters.

185. All drafted persons shall on arriving at the rendezvous be carefully inspected by the surgeon of the board, who shall truly report to the board the physical condition of each one; and all persons drafted and claiming exemption from military duty on account of disability or any other cause, shall present their claims to be exempted to the board, whose decision shall be final. (c) Ibid. § 14. Inspection of conscripts.

186. Any surgeon charged with the duty of such inspection who shall receive from any person whomsoever any money or other valuable thing, or agree, directly or indirectly, to receive the same to his own or another's use for making an imperfect inspection or a false or incorrect report, or who shall wilfully neglect to make a faithful inspection and true report, shall be tried by a court martial, and on conviction thereof be punished by fine not exceeding five hundred dollars nor less than two hundred, and be imprisoned at the discretion of the court, and be cashiered and dismissed from the service. Ibid. § 15. Penalty for frauds by inspecting surgeons.

187. As soon as the required number of able-bodied men liable to do military duty shall be obtained from the list of those drafted, the remainder shall be discharged; and all drafted persons reporting at the place of rendezvous shall be allowed travelling pay from their places of residence; and all persons discharged at the place of rendezvous shall be allowed travelling pay to their places of residence; and all expenses connected with the enrolment and draft, including subsistence while at the rendezvous, shall be paid from the appropriation for enrolling and drafting, under such regulations as the president of the United States shall prescribe; and all expenses connected with the arrest and return of deserters to their regiments, or such other duties as the provost-marshal shall be called upon to perform, shall be paid from the appropriation for arresting deserters, under such regulations as the president of the United States shall prescribe: *Provided*, The provost-marshals shall in no case receive commutation for transportation or for fuel and quarters, but only for forage when not furnished by the government, together with actual expenses of postage, stationery and clerk hire authorized by the provost-marshal general. Ibid. § 16. Discharge of surplus men. Expenses.

188. Any person enrolled and drafted according to the provisions of this act who shall furnish an acceptable substitute, shall thereupon receive from the board of enrolment a certificate of discharge from such draft which shall exempt him from military duty during the time for which he was drafted; and such substitute shall be entitled to the same pay and allowances provided by law as if he had been originally drafted into the service of the United States. Ibid. § 17. Certificates of exemption. Pay of substitutes.

189. If any person shall resist any draft (d) of men enrolled under this act into the service of the United States; or shall counsel or aid any person to resist any such draft; or shall assault or obstruct any officer in making such draft, or in the performance of any service in relation thereto; or shall counsel any person to assault or obstruct any such officer; or shall counsel any drafted men not to appear at the place of rendezvous, or wilfully dissuade them from the performance of military duty as required by law; such person shall be subject to summary arrest by the provost-marshal, and shall be forthwith delivered to the civil authorities, and upon conviction thereof be punished by Ibid. § 25. Penalty for resisting the draft, &c.

(a) A municipal corporation has no power to levy a tax on the public, to procure the exemption of drafted men. 11 Am. L. E. 621. 25 Law Rep. 619.

(b) The state courts have no jurisdiction to inquire into the validity of the draft, on *habeas corpus*. Spangler's Case, 11 Am. L. R. 598. But in Pennsylvania, it has been decided, by Lowrie, C. J., that the state courts do possess the power to inquire into the validity of the draft. *Com. v. Wright*, 11 Pittsburgh Leg. J. 41. And see *In re Hicke* and *Archibald*, *Ibid.* 25.

(c) It has been decided in Pennsylvania, that, after having given a certificate of exemption, the jurisdiction of the board over the

conscript is at an end; their adjudication is final and conclusive, and they have no power to revise their decision, so as again to subject the exempted man to military duty. *Carney's Case*, before Lowrie, C. J., at chambers, 14 August 1863. MS. And in the district court of the United States, Cadwalader, J. held, that the decision of the board, though final, was not conclusive of the rights of the parties, and that one exempted from the draft by the 2d section, might be relieved on *habeas corpus*, notwithstanding an adverse decision of the board. *Antrim's Case*, 20 Leg. Int. 300.

(d) The act provides no punishment for obstructing the enrolment. *United States v. Will*, 20 Leg. Int. 341.

3 March 1863.

a fine not exceeding five hundred dollars, or by imprisonment not exceeding two years, or by both of said punishments.

*Ibid.* § 33.

190. The president of the United States is hereby authorized and empowered, during the present rebellion, to call forth the national forces by draft in the manner provided for in this act.

*Ibid.* § 34.

191. All persons drafted under the provisions of this act shall be assigned by the president to military duty in such corps, regiments or other branches of the service as the exigencies of the service may require.

3 March 1863 § 5.  
12 Stat. 751.

Pay of members  
of enrolling  
board.

192. The surgeon and the citizen at large, who are with the provost-marshal to form the enrolling board of each congressional district, shall receive the compensation of an assistant surgeon of the army, excluding commutation for fuel and quarters for the time actually employed; and that the same may be paid by the secretary of war out of appropriations already made for the services of that department.

## Attorney-General.

1. Assistant and clerks. Temporary clerks. How moneys to be paid on requisition of attorney-general.

2. Attorney-general to have the superintendence of district attorneys and marshals.

3. May retain counsel to assist district attorneys.

4. Additional clerks.

5. Solicitor of the treasury not to be affected.

3 March 1859 § 1.  
11 Stat. 420.

Assistant and  
clerks.

Temporary  
clerks.

How moneys to  
be paid on requi-  
sition of attorney-  
general.

2 August 1861 § 1.  
12 Stat. 255.

Attorney-general  
to have the su-  
perintendence of  
district attorneys  
and marshals.

*Ibid.* § 2.

May retain coun-  
sel to assist dis-  
trict attorneys.

*Ibid.* § 3.

Additional clerks.

6 August 1861 § 1.  
12 Stat. 327.

1. That the attorney-general, in place of the six clerks now employed in his office, be and he is hereby authorized to appoint one assistant in the said office, learned in the law, at an annual salary of three thousand dollars; two third class clerks, at salaries of sixteen hundred dollars each; and one second class clerk, at a salary of fourteen hundred dollars; and that the said attorney-general be authorized, when necessary, to employ temporary clerks: *Provided*, That the allowances to such temporary clerks shall in no one year exceed one thousand dollars: *Provided also*, That all moneys hereafter drawn out of the treasury upon the requisition of the attorney-general shall be disbursed by such disbursing officer as the secretary of the treasury may designate.

2. That the attorney-general of the United States be and he is hereby charged with the general superintendence and direction of the attorneys and marshals of all the districts in the United States and the territories, as to the manner of discharging their respective duties; and the said district attorneys and marshals are hereby required to report to the attorney-general an account of their official proceedings, and the state and condition of their respective offices, in such time and manner as the attorney-general may direct.

3. That the attorney-general be and he is hereby empowered, whenever in his opinion the public interest may require it, to employ and retain (in the name of the United States) such attorneys and counsellors at law as he may think necessary to assist the district attorneys in the discharge of their duties, and shall stipulate with such assistant counsel the amount of compensation.

4. The attorney-general shall have power to increase the clerical force of his office to discharge the increased duties of the same, occasioned by this act, by appointing additional clerks, not exceeding two, and may fix their compensation at an annual salary not exceeding fourteen hundred dollars each per annum.

5. Nothing in the act of which this act is explanatory (a) shall be construed to repeal, modify or in any way affect any law now in force, defining or regulating the duties of the solicitor of the treasury.

(a) Act 2 August 1861, *supra* 2.

## Bail.

1. Powers of commissioners of bail enlarged.

15 May 1862 § 8.  
12 Stat. 337.

Powers of com-  
missioners of bail  
enlarged.

1. Commissioners appointed by the courts of the United States to take bail, affidavits, and so forth, shall have like powers to take surety of the peace and for good behavior, according the act of July 16th 1798, (a) that other officers designated by said act now have.

(a) See ante, tit. "Bail," 2.

# Banking.

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## I. BUREAU OF CURRENCY.

1. There shall be established in the treasury department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the comptroller of the currency, and shall be under the general direction of the secretary of the treasury. He shall be appointed by the president, on the nomination of the secretary of the treasury, by and with the advice and consent of the senate, and shall hold his office for the term of five years, unless sooner removed by the president, by and with the advice and consent of the senate; he shall receive an annual salary of five thousand dollars; he shall have a competent deputy, appointed by the secretary, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of comptroller during a vacancy in such office, and during his absence or inability; he shall employ from time to time the necessary clerks to discharge such duties as he shall direct, which clerks shall be appointed and classified by the secretary of the treasury in the manner now provided by law. Within fifteen days from the time of notice of his appointment, the comptroller shall take and subscribe the oath of office prescribed by the constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with not less than two responsible freeholders as sureties, to be approved by the secretary of the treasury, conditioned for the faithful discharge of the duties of his office. The deputy comptroller so appointed shall also take the oath of office prescribed by the constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars. The comptroller and deputy comptroller shall not either directly or indirectly be interested in any association issuing national currency under the provisions of this act.

25 Feb. 1863 § 1.  
12 Stat. 665.

Bureau of currency established  
Comptroller.

Deputy comptroller.

Clerks.

Oath.

Bonds.

25 Feb. 1863 § 2.  
Official seal.

2. The comptroller of the currency, with the approval of the secretary of the treasury, shall devise a seal with suitable inscriptions for his office, a description of which, with a certificate of approval by the secretary of the treasury, shall be filed in the office of the secretary of state with an impression thereof, which shall thereupon become the seal of office of the comptroller of the currency, and the same may be renewed when necessary. Every certificate, assignment and conveyance executed by the comptroller, in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office of the comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Ibid. § 3.  
Office of comptroller.

3. There shall be assigned to the comptroller of the currency, by the secretary of the treasury, suitable rooms in the treasury building, for conducting the business of the currency bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the comptroller to deposit and safely keep all the plates and other valuable things belonging to his department; and the comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights and other proper conveniences for the transaction of the said business.

Ibid. § 4.

4. The term "United States bonds," as used in this act, shall be construed to mean all coupon and registered bonds now issued or that may hereafter be issued on the faith of the United States by the secretary of the treasury in pursuance of law.

## II. ORGANIZATION OF BANKING COMPANIES.

25 Feb. 1863 § 5.  
12 Stat. 606.

5. Associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five.

Ibid. § 6.  
Articles of association.

6. Persons uniting to form such an association shall, under their hands and seals, make a certificate, which shall specify—

I. The name assumed by such association.

II. The place where its operations of discount and deposit are to be carried on; designating the state, territory or district, and also the particular city, town or village.

III. The amount of its capital stock, and the number of shares into which the same shall be divided; which capital stock shall not be less than fifty thousand dollars; and in cities whose population is over ten thousand persons, the capital stock shall not be less than one hundred thousand dollars.

IV. The names and places of residence of the shareholders, and the number of shares held by each of them.

V. The time when such association shall commence.

VI. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

To be acknowledged and filed of record.

Certified copies to be evidence.

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and the acknowledgment thereof certified under the seal of such court or notary, and shall be transmitted, together with a copy of the articles of association which shall have been adopted, to the comptroller of the currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the comptroller and authenticated by his seal of office, shall be legal and sufficient evidence, in all courts and places within the United States, or the jurisdiction of the government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

Ibid. § 7.  
Payment of capital.

7. At least thirty per centum of the capital stock of such association shall be paid in at the time of the commencement of its banking business, and the remainder of the capital stock of such association shall be paid in instalments of at least ten per centum each on the whole amount to which the association shall be limited, as frequently as one instalment at the end of each succeeding two months from the time of the commencement of its banking operations, until the whole of the capital stock shall be paid in.

Ibid. § 8.  
Stock of delinquents to be forfeited and sold.

8. If any shareholder or his assignee shall fail to pay any instalment on the stock when the same is required by the foregoing section to be paid, the directors of such association may sell the stock held by such delinquent shareholder, at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city where the association is located, if the same be located in a city, and if not so located, then in a newspaper printed or of general circulation in the county where the same is located, to any person who will pay the highest price therefor, and not less than the amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association,

and the costs of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock may subsequently be sold as the directors may order.

25 Feb. 1863.

Ibid. § 9.

Duties of comptroller.

9. Whenever a certificate shall have been transmitted to the comptroller of the currency, as provided in this act, and the association transmitting the same shall notify the comptroller that at least thirty per centum of its capital stock has been paid as aforesaid, and that such association has complied with all the provisions of this act required to be complied with before such association shall be authorized to commence the business of banking, and that such association is desirous of commencing such business, the comptroller shall immediately proceed, in such manner as he shall by general rules prescribe, to examine the condition of such association; to ascertain especially the amount of money paid in on account of its capital stock; the name and place of residence of each of the directors of such association, and the amount of the capital stock of which each is the *bona fide* owner, and generally whether such association has complied with all the requirements of this act to entitle it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors and by the president or cashier of such association, a statement of all the facts necessary to enable the comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

Ibid. § 10.

Comptroller to give certificate.

10. If upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it shall appear that such association is lawfully entitled to commence the business of banking, the comptroller shall give to such association a certificate, under his hand and official seal, showing that such association has complied with all the provisions of this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of such association to cause said certificate to be published in some newspaper, published in the city or county where such association is located, for at least sixty days next after the issuing thereof: *Provided*, That if no newspaper is published in such city or county, such certificate shall be published as the comptroller of the currency shall direct.

To be published.

### III. CORPORATE POWERS.

11. Every association formed pursuant to the provisions of this act may make and use a common seal, and shall have succession by the name designated in its articles of association and for the period limited therein, not, however, exceeding twenty years from the passage of this act; by such name may make contracts, sue and be sued, complain and defend in any court of law or equity as fully as natural persons; and may make by-laws, approved by the comptroller of the currency, not inconsistent with the laws of the United States or the provisions of this act, for the election of directors, the management of its property, the regulation of its affairs, and for the transfer of its stock; and shall have power to carry on the business of banking by obtaining and issuing circulating notes in accordance with the provisions of this act; by discounting bills, notes and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins and bills of exchange; by loaning money on real and personal security, in the manner specified in their articles of association, for the purposes authorized by this act; and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier and such other officers and agents as their business may require; and to remove such president, cashier, officers and agents at pleasure, and appoint others in their place; and their usual business shall be transacted in banking offices located at the places specified respectively in its certificate of association, and not elsewhere.

25 Feb. 1863 § 11.  
12 Stat. 668.

Corporate powers of banking associations.

12. The shares of associations formed under this act shall be deemed personal property, and shall be transferrable on the books of the association in such manner as may be prescribed in the by-laws or articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies or security of the existing creditors of the association shall be impaired. For all debts contracted by such association for circulation, deposits or otherwise, each shareholder shall be liable to the amount, at their par value, of the shares held by him in addition to the amount invested in such shares.

Ibid. § 12.

Shares to be personal property.

Transfers regulated.

Personal liability of stockholders.

13. It shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital, from time to time, as may be deemed expedient, subject to the limitations of this act; but no such increase shall be valid

Ibid. § 13.

Increase of capital.

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until the increased capital shall be paid in, and notice thereof shall have been transmitted to the comptroller of the currency, and his certificate obtained, specifying the amount of such increase of capital stock, and that the same has been duly paid to such association.

Ibid. § 14.

Power to hold  
real estate.

14. It shall be lawful for any such association to purchase, hold and convey real estate as follows:

I. Such as shall be necessary for its immediate accommodation in the transaction of its business.

II. Such as shall be mortgaged to it in good faith by way of security for loans made by such association, or for moneys due thereto.

III. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

IV. Such as it shall purchase at sales under judgments, decrees or mortgages held by such association.

Such association shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section.

## IV. BANK NOTES.

25 Feb. 1863 § 15.  
12 Stat. 600.

United States  
bonds to be de-  
posited with  
treasurer.

15. Every association, after having complied with the provisions of this act preliminary to the commencement of banking business under its provisions, shall transfer and deliver to the treasurer of the United States any United States bonds bearing interest to an amount not less than one-third of the capital stock paid in; which bonds shall be deposited with the treasurer of the United States, and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act.

Ibid. § 16.

Circulating notes  
to be delivered to  
such associations.

16. Upon the making of any such transfer and delivery, the association making the same shall be entitled to receive from the comptroller of the currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding the par value thereof, if bearing interest, at the rate of six per centum, or of equivalent United States bonds bearing a less rate of interest; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

Limitation.

Ibid. § 17.

Apportionment  
of such currency.

17. The entire amount of circulating notes to be issued under this act shall not exceed three hundred millions of dollars. One hundred and fifty millions of which sum shall be apportioned to associations in the states, in the District of Columbia and in the territories, according to representative population, and the remainder shall be apportioned by the secretary of the treasury among associations formed in the several states, in the District of Columbia, and in the territories, having due regard to the existing banking capital, resources and business of such states, district and territories.

Ibid. § 18.

Notes to be pre-  
pared by comp-  
troller.

18. In order to furnish suitable notes for circulation, the comptroller of the currency is hereby authorized and required, under the direction of the secretary of the treasury, to cause plates to be engraved in the best manner to guard against counterfeiting and fraudulent alterations, and to have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars and one thousand dollars, as may be required to supply, under this act, the associations entitled to receive the same; which notes shall express upon their face that they are secured by United States bonds, deposited with the treasurer of the United States, and issued under the provisions of this act, which statement shall be attested by the written or engraved signatures of the treasurer and register, and by the imprint of the seal of the treasury; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signatures of the president, or vice president, and cashier; and the said notes shall bear such devices and such other statements, and shall be in such form, as the secretary of the treasury shall, by regulation, direct.

Form thereof.

Ibid. § 19.

Custody of plates  
and dies.

19. The plates and special dies to be procured by the comptroller of the currency for the printing of such circulating notes, shall remain under his control and direction, and the expenses necessarily incurred in executing the provisions of this act respecting the procuring of such notes, shall be audited and paid as contingent expenses of the treasury department; and for the purpose of reimbursing the same, and all other expenses incurred under this act, and in lieu of all taxes upon the circulation authorized by this act, or upon the bonds deposited for the security of the same, such association organized under this act shall semi-annually, on the first days of January and July, after its organization, pay to the comptroller of the currency, in lawful money of the United States, one per centum on the amount of circulating notes received by such association, and in default thereof, the treasurer of the United States is hereby authorized to reserve and retain one

Payment of ex-  
penses.

per centum on the amount of said bonds so deposited at each semi-annual payment of interest thereon; and all sums so reserved and retained shall be paid into the treasury under the direction of the secretary; and every bank, banking association or corporation, not organized under the provisions of this act, issuing notes calculated or intended to circulate as money, shall, on the first day of July next, and regularly on the first days of January and July thereafter, make and deliver to the comptroller of the currency a true and accurate return of the gross amount of notes issued by it, whether in circulation, or in its vaults, or on deposit elsewhere, and in default of any such return, the bank, banking association or corporation so failing to make return, shall pay to the United States a penalty of two per centum upon its entire capital stock, to be recovered, for the use of the United States, in any court of competent jurisdiction.

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Bank returns.

Penalty for neglect to make return.

20. After any such association shall have caused its promise to pay such notes on demand to be signed by the president or vice president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands and all other dues to the United States, except for duties on imports, and also for all salaries and other debts and demands owing by the United States to individuals, corporations and associations within the United States, except interest on public debt; and no such association shall issue post-notes or any other notes to circulate as money, than such as are authorized by the foregoing provisions of this act.

Ibid. § 20.

When and how such notes may be issued as currency.

To be receivable for taxes, &amp;c.

Post-notes prohibited.

21. All transfers of United States bonds which shall be made by any association as security for circulating notes under the provisions of this act, shall be made to the treasurer of the United States, with a memorandum written or printed on the certificate of such bonds, and signed by the cashier or some other officer of the association making the deposit, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of the circulating notes delivered to such association; and no transfer of any such bonds by the treasurer shall be deemed valid or of binding force and effect, unless sanctioned by the order or request of the comptroller of the currency upon the treasurer. It shall be the duty of the comptroller of the currency to keep in his office a book, in which shall be entered the name of every association from whose account such transfer of bonds is made by the treasurer, and the name of the party to whom such transfer is made, unless such transfer is made in blank, in which case the fact shall be stated in said book, and in either case the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made, the kind of bonds and the amount thereof so transferred.

Ibid. § 21.

Declaration of trust to be indorsed on bonds held by the treasurer.

Registry thereof.

22. It shall be the duty of the comptroller of the currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any bonds held by the treasurer presented for his signature; and the comptroller shall have at all times, during office hours, access to the books of the treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the treasurer shall have the like access to the book above mentioned, kept by the comptroller, during office hours, to ascertain the correctness of the entries in the same.

Ibid. § 22.

Assignments to be registered.

23. The bonds transferred to the treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose until such notes shall be redeemed, except as provided in this act; but the comptroller of the currency may give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which shall have been so transferred to the treasurer by it; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid; and said comptroller may direct the return of any of said bonds to the banking association which transferred the same, upon the surrender to him, and the cancellation of a proportionate amount of such circulating notes: *Provided*, That ninety per centum of the current market value of the remaining bonds, which shall have been transferred by the banking association offering to surrender such circulating notes, shall be equal to the amount of all the circulating notes retained by such banking association: *And provided further*, That there shall have been no failure by such association to redeem its circulating notes, and that there shall have been no other violation by such association of any of the provisions of this act for the security of the creditors of such association; nor shall the treasurer be required to surrender such bonds in fractional sums of less than one thousand dollars; and if, at any time after said bonds shall be deposited with the treasurer of the United States as aforesaid, the market or

Ibid. § 30.

To be held as security for circulating notes. Interest.

Surrender of bonds regulated.



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When further deposit of securities to be required.

Ibid. § 31.

In case of depreciation interest to be retained.

To be invested in other bonds.

Ibid. § 32.

Worn-out and mutilated notes to be exchanged for new ones.

Destruction of cancelled notes.

Ibid. § 33.

Penalty for unauthorized delivery of notes.

Ibid. § 34.

Costs of protest.

Ibid. § 35.

Penalty for mutilating or defacing notes.

Ibid. § 37.

Forgery punished.

cash value shall be reduced, the comptroller of the currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money from the association receiving said bills, to be deposited with the treasurer of the United States as long as such depreciation continues.

24. Whenever the price of any of the bonds pledged as aforesaid for the redemption of the circulating notes of any such banking association shall be, at the stock exchange in the city of New York, for four consecutive weeks, at a rate less than that at which they shall have been estimated when so pledged, and such depreciation shall not have been made good by a deposit of other bonds or money, it shall be the duty of the comptroller of the currency to notify the treasurer of the United States of such fact, and the payment of interest upon such depreciated bonds shall be suspended, and such interest shall be retained by said treasurer, until the same, when added to the current market value of the bonds so pledged, to be ascertained as before provided, shall be equal to the amount for which such bonds were pledged: *Provided*, That it shall be the duty of the comptroller of the currency, at the expiration of every period of three months, to cause the whole of the sums so retained, and then remaining in the treasury of the United States, to be invested in United States bonds, in the name of the comptroller of the currency, in trust for the respective associations by which the bonds on which such interest shall have accrued shall have been pledged; and whenever the price of such depreciated bonds at the stock exchange in New York shall rise to the price at which they were pledged, and so remain for four consecutive weeks, such investment shall be assigned to such association, and all accruing interest on such pledged bonds shall thereafter be paid to such association on demand thereof.

25. It shall be the duty of the comptroller of the currency to receive worn-out or mutilated circulating notes issued by any such banking association, and to deliver in place thereof to such association other blank circulating notes to an equal amount; and such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the comptroller, as well as all circulating notes which shall have been paid or surrendered to be cancelled, shall be burned to ashes in presence of three persons, one to be appointed by the secretary of the treasury, one by the comptroller of the currency and one by the treasurer of the United States, under such regulations as the secretary of the treasury may prescribe; and in case such notes shall have been delivered to the comptroller by an officer or agent of such association, then in the presence also of such officer or agent; and a certificate of such burning, signed by the parties so appointed, shall be made in the books of the comptroller, and a duplicate thereof given to such officer or agent.

26. It shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any such association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act; and any officer who shall violate the provisions of this section, shall be deemed guilty of a high misdemeanor, and on conviction thereof, shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not exceeding fifteen years, at the discretion of the court in which he shall be tried.

27. All fees for protesting the notes issued by any such banking association shall be paid by the person procuring the protest to be made, and such banking association shall be liable therefor; but no part of the stock pledged by such banking association as aforesaid shall be applied to the payment of such fees; and all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

28. Every person who shall mutilate, cut, deface, disfigure or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note or other evidence of debt issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note or other evidence of debt unfit to be reissued by said association, shall upon conviction forfeit fifty dollars to the association who shall be injured thereby, to be recovered by action in any court having jurisdiction.

29. If any person shall falsely make, forge or counterfeit, or cause or procure to be made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any note in imitation of, or purporting to be an imitation of the circulating notes issued under the provisions of this act; or shall pass, utter or publish, or attempt to pass, utter or publish any false, forged or counterfeited note, purporting to be issued by any association doing a banking business under the provisions of this act,

knowing the same to be falsely made, forged or counterfeited; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any such circulating notes issued as aforesaid; or shall pass, utter or publish, or attempt to pass, utter or publish as true, any falsely altered or spurious circulating note, issued or purporting to have been issued as aforesaid, knowing the same to be falsely altered or spurious; every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than five years nor more than fifteen years, and to be fined in a sum not exceeding one thousand dollars.

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Uttering.

30. If any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any engraved plate or block after the similitude of any plate from which any circulating notes issued as aforesaid shall have been printed, with intent to use such plate or block, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid; or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid; or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid; every such person being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a term not less than five nor more than fifteen years, and fined in a sum not exceeding one thousand dollars.

Ibid. § 59.  
Engraving plates, &c.

Possession of paper, &c.

#### V. BANK STATEMENTS.

31. It shall be the duty of either the president or cashier of every banking association having stocks deposited in the office of the treasurer of the United States, once or more in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the bonds so pledged with the books of said department, and if found correct to execute to the said treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the treasurer at the date of such certificate. Such examination may be made by an agent of such association duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier.

25 Feb. 1863 § 23.  
12 Stat. 671.

Examination of bonds pledged.

Certificate.

32. Every association issuing circulating notes under the provisions of this act, shall make a quarterly report to the comptroller of the currency commencing on the first day of the quarter of the year next succeeding the organization of such association, and continuing on the first days of each succeeding quarter in every year thereafter, which report shall be verified by the oath or affirmation of the president and cashier; and all wilful false swearing in respect to such report shall be perjury, and subject to the punishment prescribed by law for such offence. The report hereby required shall be in the form prescribed by the comptroller, and shall contain a true statement of the condition of the association making such report, before the transaction of any business on the morning of the day specified, next preceding the date of such report, in respect of the following items and particulars, to wit: loans and discounts, overdrafts due from banks, amount due from the directors of the association, real estate, specie, cash items, stocks, bonds and promissory notes, bills of solvent banks, bills of suspended banks, loss and expense account, capital, circulation, profits, amount due to banks, amount due to individuals and corporations other than banks, amount due the treasurer of the United States, amount due to depositors on demand, amount due not included under either of the above heads. And it shall be the duty of the comptroller to publish full abstracts of such reports together, in two newspapers to be designated by him for that purpose, one in the city of Washington and the other in the city of New York, exhibiting the items of capital, circulation and deposits, specie and cash items, public securities and private securities; and the separate report of each association shall be published in a newspaper published in the place where such association is established, or if there be no newspaper at such place, then in a newspaper published at the capital of the state, at the expense of the association making such report. In addition to the quarterly reports required by this section, every association located and doing business in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis and New Orleans, shall publish or cause to be published on the morning of the first Tuesday in each month, in a newspaper printed in the city in which the association making such report is located, to be designated by the comptroller of the currency, a statement, under the oath of the president or cashier, showing the condition

Ibid. § 24.

Quarterly reports to be made on oath.

Form of statement.

To be published.

Monthly statements to be published in certain cities.

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of the association making such statement, on the morning of the day next preceding the date of such statement, in respect to the following items and particulars, to wit: average amount of loans and discounts, specie, deposits and circulation.

## VI. PROCEEDINGS ON FAILURE TO REDEEM.

25 Feb. 1863 § 25.  
12 Stat. 672.

Protest of notes.

Business to be  
thereupon dis-  
continued.

Ibid. § 26.

Comptroller to  
ascertain fact of  
suspension.Securities to be  
forfeited.Notes to be pre-  
sented for pay-  
ment at the  
treasury.Bonds to be can-  
celled.Preference of the  
United States for  
deficiency.

Ibid. § 27.

Comptroller may,  
at his option, sell  
securities by  
auction.

Ibid. § 28.

Or by private  
sale.

33. If any such association shall at any time fail to redeem, in the lawful money of the United States, any of its circulating notes when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, the holder may cause the same to be protested in one package by a notary public, unless the president or cashier of the association shall offer to waive demand and notice of the protest, and shall in pursuance of such offer make, sign and deliver to the party making such demand an admission in writing, stating the time of the demand, the amount demanded and the fact of the non-payment thereof; and such notary public, on making such protest or upon receiving such admission, shall forthwith forward such admission or notice of protest to the comptroller of the currency; and after such default it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits: *Provided, however,* That if satisfactory proof be produced to such notary public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

34. On receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next preceding section, the comptroller of the currency, with the concurrence of the secretary of the treasury, may appoint a special agent (of whose appointment immediate notice shall be given to such association,) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes in the lawful money of the United States, when demanded as aforesaid, and report to the comptroller the facts so ascertained; and if from such protest or the reports so made, the comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly; and thereupon the comptroller shall immediately give notice, in such manner as the secretary of the treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association to present them for payment at the treasury of the United States; and the same shall be paid as presented, whereupon said comptroller may in his discretion cancel an equal amount of the bonds pledged by such association, equal at current market rates, not exceeding par, to the notes paid; and it shall be lawful for the secretary of the treasury from time to time to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper; but all such notes on being paid shall be cancelled; and for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association, and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

35. Whenever the comptroller shall become satisfied, as in the last preceding section specified, that any such association has refused to pay its circulating notes as therein mentioned, he may, instead of cancelling the United States bonds pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to such association.

36. The comptroller of the currency may, if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the stock so transferred to him by such association, and receive therefor either money or the circulating notes of such failing association: *Provided,* That no such bonds shall be sold by private sale for less than the par, nor less than the market value thereof at the time of sale: *And provided further,* That no sales of any such stock, either public or private,

shall be complete until the transfer thereof shall have been made with the formalities prescribed in this act.

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37. On becoming satisfied, as specified in this act, that any such association has refused to pay its circulating notes as therein mentioned, and is in default, the comptroller of the currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who, under the direction of the comptroller, shall take possession of the books, records and assets of every description of such association, collect all debts, dues and claims belonging to such association, and upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and on a like order sell all the real and personal property of such association on such terms as the court shall direct; and such receiver shall pay over all moneys so made to the treasurer of the United States, and also make report to the comptroller of the currency of all his acts and proceedings. The comptroller shall thereupon cause notice to be given by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof; and from time to time, the comptroller, after full provision shall have been first made for refunding to the United States any such deficiency in redeeming the notes of such association as is mentioned in this act, shall make a rateable dividend of the moneys so paid over to him by such receiver, on all such claims as may have been so proved or adjudicated in a court of competent jurisdiction, and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held: *Provided, however,* That if any such association against which proceedings have been so instituted on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may, at any time within ten days after such association shall have been notified of the appointment of an agent as provided in this act, apply to the nearest circuit, or district, or territorial court of the United States, to enjoin further proceeding in the premises; and such court, after citing the comptroller of the currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

Ibid. § 29.

Appointment of receiver.

His powers and duties.

Proceedings on appointment of receiver.

Association may have an issue as to the fact of suspension.

#### VII. CAPITAL STOCK.

38. The capital stock of any association formed under this act shall be divided into shares of one hundred dollars each, and shall be assignable on the books of the association in such manner as its by-laws shall prescribe; but no shareholder in any association under this act shall have power to sell or transfer any share held in his own right so long as he shall be liable, either as principal, debtor, surety or otherwise, to the association for any debt which shall have become due and remain unpaid, nor in any case shall such shareholder be entitled to receive any dividend, interest or profit on such shares so long as such liabilities shall continue, but all such dividends, interests and profits shall be retained by the association, and applied to the discharge of such liabilities; and no stock shall be transferred without the consent of a majority of the directors while the holder thereof is thus indebted to the association.

25 Feb. 1863 § 36.  
12 Stat. 676.

Division of capital stock.  
Assignment of shares.

39. No banking association shall take as security for any loan or discount, a lien upon any part of its capital stock; but the same security, both in kind and amount, shall be required of shareholders as of other persons; and no such banking association shall be the purchaser or holder of any portion of its capital stock, or of the capital stock of any other incorporated company, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, on security which at the time was deemed adequate to insure the payment of such debt, independent of any lien upon such stock, or in case of forfeiture of stock for the non-payment of instalments due thereon; and stock so purchased or acquired shall in no case be held by such association so purchasing for a longer period of time than six months, if the same can within that time be sold for what the stock cost.

Ibid. § 37.

Shares not to be discounted on.

Nor to be owned by the company.

Exceptions.

40. The stockholders collectively of any such association shall at no time be liable to such association, either as principal debtors or sureties or both, to an amount greater than three-fifths of the capital stock actually paid in and remaining undiminished by losses or otherwise; nor shall the directors be so liable, except to such amount and in such manner as shall be prescribed by the by-laws of such association, adopted by its stockholders to regulate such liabilities.

Ibid. § 35.

Limitation of discounts &c. to stockholders.

41. In all elections of directors, and in deciding all questions at meetings of share-

Ibid. § 33.

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Stock votes.

holders, each shareholder shall be entitled to one vote on each share of stock held by him; shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller or book-keeper of such association shall act as proxy; and no stockholder whose liability is past due and unpaid shall be allowed to vote.

#### VIII. DIRECTORS.

25 Feb. 1863 § 38.  
12 Stat. 67d.

Number and  
qualifications of  
directors.

Oath.

42. The affairs of every such association shall be managed by not less than five nor more than nine directors, one of whom shall be president of the association; every director shall, during his whole term of service, be a citizen of the United States and a resident of the state in which such association is located. At least three-fourths of the directors shall have resided in the state in which such association is located one year next preceding their election as directors; and each director shall own in his own right at least one per centum of the capital stock of such association not exceeding two hundred thousand dollars, and the half of one per centum of its capital if over two hundred thousand dollars. Each director shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate or willingly permit to be violated any of the provisions of this act, and that he is the *bonâ fide* owner in his own right of the shares of stock standing in his name on the books of the association, and that the same is not hypothecated or in any way pledged as security for any loan obtained or debt owing to the association of which he is a director; which oath, subscribed by himself and certified by the officer before whom it is taken, shall be immediately transmitted to the comptroller of the currency, and by him filed and preserved in his office.

Ibid. § 40.

Term of office.

43. The directors of any such association first elected shall hold their places until their successors shall be elected and qualified. All subsequent elections shall be held annually on such day in the month of January as the stockholders of said association may prescribe; and the directors so elected shall hold their places for one year, and until their successors are elected and qualified. But any director removing from the state or ceasing to be the owner of the requisite amount of stock shall thereby vacate his place. Any vacancy in the board shall be filled by appointment by the remaining directors. The director so appointed shall hold his place until the next annual election; and if from any cause an election of directors shall not be made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof having been given in a newspaper printed or of general circulation in the city, town or county in which the association is located, and if no newspaper is published in such city, town or county, such notice shall be published in a newspaper in the county adjoining.

How vacancies to  
be filled.

#### IX. BANKING BUSINESS.

25 Feb. 1863 § 41.  
12 Stat. 67i.

What amount of  
cash funds to be  
kept on hand.

What to be  
deemed cash  
funds.

44. Every such association shall at all times have on hand in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its outstanding notes of circulation and its deposits; and whenever the amount of its outstanding notes of circulation and its deposits shall exceed the above-named proportion for the space of twelve days, or whenever such lawful money of the United States shall at any time fall below the amount of twenty-five per centum of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts, otherwise than by discounting or purchasing bills of exchange, payable at sight, nor make any dividend of its profits, until the required proportion between the aggregate amount of its outstanding notes of circulation and its deposits and lawful money of the United States shall be restored: *Provided, however,* That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificates, and considered to be a part of the lawful money which such association is required to have under the foregoing provisions of this section: *Provided further,* That any balance due to any association organized under this act in other places, from any association in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis or New Orleans, in good credit, subject to be drawn for at sight, and available to redeem their circulating notes and deposits, may be deemed to be a part of the lawful money which such association in other places than the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis and New Orleans are required to have by the foregoing provisions of this section, to the extent of three-fifths of the said amount of twenty-five per centum required. And it shall be competent for the comptroller of the currency to notify any such association whose lawful money reserve as aforesaid shall fall below said proportion of twenty-five per centum, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United

Proceedings on  
neglect to keep  
such funds in re-  
serve.

States, the comptroller may, with the concurrence of the secretary of the treasury, appoint a receiver to wind up the business of such association, as provided in this act.

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45. No association shall at any time be indebted or in any way liable to an amount exceeding the amount of its capital stock at such time actually paid in, and remaining undiminished by losses or otherwise, except on the following accounts, that is to say:

Ibid. § 42.

Limitation of amount of indebtedness.

I. On account of its notes of circulation.

II. On account of moneys deposited with or collected by such association.

III. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association or due thereto.

IV. On account of liabilities to its stockholders for money paid in on capital stock, and dividends thereon and reserved profits.

46. No association shall either directly or indirectly pledge or hypothecate any of its notes of circulation, for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations or otherwise.

Ibid. § 43.

Circulating notes not to be pledged.

47. Every association may take, reserve, receive and charge on any loan or discount made, or upon any note, bill of exchange or other evidence of debt, such rate of interest or discount as is for the time the established rate of interest for delay in the payment of money, in the absence of contract between the parties, by the laws of the several states in which the associations are respectively located, and no more: *Provided, however*, That interest may be reserved or taken in advance at the time of making the loan or discount according to the usual rules of banking; and the knowingly taking, reserving or charging of a rate of interest greater than that allowed by this section shall be held and adjudged a forfeiture of the debt or demand on which the same is taken, reserved or charged; but the purchase, discount or sale of a bill of exchange, drawn on actually existing values, and payable at another place than the place of such purchase, discount or sale, at the current discount or premium, shall not be considered as taking, reserving or charging interest.

Ibid. § 46.

Rates of interest on loans, &c.

Penalty for usury.

48. The total liabilities of any person, or of any company or firm (including in the liabilities of a company or firm the liabilities of the several members thereof), to any association, including liabilities as acceptor of *bona fide* bills of exchange, payable out of the state where the association is located, shall at no time exceed one-third; exclusive of liabilities as acceptor, one-fifth; and exclusive of liabilities on such bills of exchange, one-tenth part of the amount of the capital stock of such association actually paid in.

Ibid. § 47.

Limitation of indebtedness of individuals to such companies.

49. No association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, nor shall it in any other mode put in circulation the notes of any bank or banking association, which notes shall not at any such time be receivable at par on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall it knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

Ibid. § 48.

What notes may be paid out.

#### X. DIVIDENDS.

50. No association or any member thereof shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn either in form of dividends, loans to stockholders for a longer time than six months, or in any other manner, any portion of its capital; and if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association while it shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts; and all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts within the meaning of this act.

25 Feb. 1863 § 44.  
12 Stat. 677.

Dividends not to be declared upon capital.

51. The directors of every association shall semi-annually in the months of May and November, declare a dividend of so much of the profits of such association as they shall judge expedient; and on each dividend day the cashier shall make and verify by his oath a full, clear and accurate statement of the condition of the association, as it shall be on that day after declaring the dividend, which statement shall contain—

Ibid. § 45.

When dividends to be declared.

I. The amount of the capital stock actually paid in and then remaining, as the capital stock of such association.

Statement on dividend day.

II. The amount of the circulating notes of such association then in circulation.

III. The greatest amount in circulation at any time since the making of the last previous statement, as shall have been exhibited by the weekly statements of the cashier, specifying the times when the same occurred.

IV. The amount of balances and debts of every kind due to other banks and banking associations.

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V. The amount due to depositors.

VI. The total amount of debts and liabilities of every description, and the greatest amount since the making of the last previous statement, specifying the time when the same accrued.

VII. The total amount of dividend declared on the day of making the statement.

VIII. The amount of lawful money of the United States belonging to the association and in its possession at the time of making the statement.

IX. The amount subject to be drawn at sight, in lawful money of the United States, then remaining on deposit with any associations, banks or bankers, specifying the amounts so on deposit in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis and New Orleans.

X. The amount then on hand of bills or notes, issued by other banks and banking associations.

XI. The amount of balances due from other banks, bankers and banking associations, excluding deposits subject to be drawn at sight as aforesaid.

XII. The amount on hand of bills, bonds, stocks, notes and other evidences of debts, discounted or purchased by the association, specifying particularly the amount of suspended debt, the amount considered bad, the amount considered doubtful and the amount in suit or judgment.

XIII. The value of the real and personal property held for the convenience of the association, specifying the amount of each.

XIV. The amount of real estate taken in payment of debts due to the association.

XV. The amount of the undivided profits of the association.

XVI. The total amount of the liability to the association by the directors thereof collectively, specifying the gross amount of such liabilities as principal debtors, and the gross amount of indorsers or sureties.

The statement thus made shall forthwith be transmitted to the comptroller of the currency.

#### XI. MISCELLANEOUS PROVISIONS.

25 Feb. 1863 § 49.  
12 Stat. 679.Transfers after  
act of insolvency  
to be void.

52. All transfer of the notes, bonds, bills of exchange and other evidences of debt owing to any association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion or other valuable thing for its use or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void.

Ibid. § 50.

Directors violating  
the law to be  
individually liable.

53. If the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents or servants of the association to violate any of the provisions of this act, all the rights, privileges and franchises of the association derived from this act shall be thereby forfeited; such violation shall, however, be determined and adjudged by a proper circuit, district or territorial court of the United States, before the association shall be declared dissolved; and in cases of such violation, every director who participated in or assented to the same shall be held liable, in his personal and individual capacity, for all damages which the association, its shareholders or any other person shall have sustained in consequence of such violation.

Ibid. § 51.

Examination in-  
to affairs of bank-  
ing associations.

54. The comptroller of the currency, with the approbation of the secretary of the treasury, as often as shall be deemed necessary or proper, shall appoint a suitable person or persons to make an examination of the affairs of every banking association, which person shall not be a director or other officer in any association whose affairs he shall be appointed to examine, and who shall have power to make a thorough examination into all the affairs of the association, and in doing so to examine any of the officers and agents thereof on oath, and shall make a full and detailed report of the condition of the association to the comptroller; and the association shall not be subject to any other visitatorial powers than such as are authorized by this act, except such as are vested in the several courts of law and chancery. And every person appointed to make such examination shall receive for his services at the rate of five dollars for each day by him employed in such examination, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined.

Ibid. § 52.

Punishment of  
embezzlement.

55. Every president, director, cashier, teller, clerk or agent of any association who shall embezzle, abstract or wilfully misapply any of the moneys, funds or credits of the association, or shall, without authority from the directors, issue or put in circulation any of the notes of the association, or shall, without such authority, issue or put forth

any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment or decree, or shall make any false entry in any book, report or statement of the association, with intent in either case to injure or defraud any other company, body politic or corporate, or any individual person, or to deceive any officer or agent appointed to examine the affairs of any such association, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than five nor more than ten years.

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56. The president and cashier of every such association shall cause to be kept at all times, a full and correct list of the names and residences of all the shareholders in the association, in the office where its business is transacted; and such list shall be subject to the inspection of all the shareholders and creditors of the association, during business hours of each day in which business may be legally transacted; and a copy of such list, verified by the oath of such president or cashier, shall, at the beginning of every year, be transmitted to the comptroller of the currency, commencing on the first day of the first quarter after the organization of the association.

Ibid. § 53.

List of stock-holders.

57. The secretary of the treasury is hereby authorized, whenever in his judgment the public interests will be promoted thereby, to employ any of such associations doing business under this act as depositaries of the public moneys, except receipts from customs.

Ibid. § 54.

May be made public depositaries.

58. All suits and proceedings arising out of the provisions of this act, in which the United States or its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts, under the direction and supervision of the solicitor of the treasury.

Ibid. § 55.

Duties of district attorneys.

59. Suits, actions and proceedings by and against any association under this act may be had in any circuit, district or territorial court of the United States held within the district in which such association may be established.

Ibid. § 59.

Jurisdiction of the federal courts.

60. It shall be the duty of the comptroller of the currency to report annually to congress, at the commencement of its session—

Ibid. § 60.

Annual reports to congress.

I. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

II. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed, and the amount outstanding.

III. To suggest any amendment to the laws relative to banking, by which the system may be improved, and the security of the bill-holders and depositors may be increased.

IV. To report the names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year; and such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the senate and house, and one thousand copies for the use of the department, shall be printed by the public printer and in readiness for distribution on the first meeting of congress.

61. Any banking association or corporation lawfully in existence as a bank of circulation on the first day of January, Anno Domini 1863, organized in any state, either under a special act of incorporation or a general banking law, may, at any time within — years after the passage of this act, become an association under the provisions of this act; in such case the certificate of association provided for by this act shall be signed by the directors of such banking association or corporation, and in addition to the specifications required by this act, shall specify that such directors are authorized by the owners of two-thirds of the capital stock of such banking association or corporation, to make such certificate of association; and such certificate of association shall thereafter have the same effect, and the same proceedings shall be had thereon, as is provided for as to other associations organized under this act. And such association or corporation thereafter shall have the same powers and privileges, and shall be subject to the same duties, responsibilities and rules in all respects, as is [are] prescribed in this act for other associations organized under it, and shall be held and regarded as an association under this act.

Ibid. § 61.

Existing banks may accept the provisions of this act.

62. Any bank or banking association, authorized by any state law to engage in the business of banking, and duly organized under such state law at the time of the passage of this act, and which shall be the holder and owner of United States bonds to the amount of fifty per centum of its capital stock, may transfer and deliver to the treasurer of the United States such bonds, or any part thereof, in the manner provided by this

Ibid. § 62.

May deposit bonds and receive notes.



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act; and upon making such transfer and delivery, such bank or banking association shall be entitled to receive from the comptroller of the currency, circulating notes, as herein provided, equal in amount to eighty per centum of the amount of the bonds so transferred and delivered.

Ibid. § 63.

Proceedings on failure to redeem

63. Upon the failure of any such state bank or banking association to redeem any of its circulating notes issued under the provisions of the preceding section, the comptroller of the currency shall, when satisfied that such default has been made, and within thirty days after notice of such default, proceed to declare the bonds transferred and delivered to the treasurer, forfeited to the United States, and the same shall thereupon be forfeited accordingly. And thereupon the circulating notes which have been issued by such bank or banking association shall be redeemed and paid at the treasury of the United States, in the same manner as other circulating notes issued under the provisions of this act are redeemed and paid.

Ibid. § 64.

Bonds may be cancelled or sold.

64. The bonds forfeited, as provided in the last preceding section, may be cancelled to an amount equal to the circulating notes redeemed and paid, or such bonds may be sold, under the direction of the secretary of the treasury, and after retaining out of the proceeds a sum sufficient to pay the whole amount of circulating notes, for the redemption of which such bonds are held, the surplus, if any remains, shall be paid to the bank or banking association from which such bonds were received.

Ibid. § 65.

65. Congress reserves the right at any time to amend, alter or repeal this act.

## Bounty Lands.

### I. GENERAL PROVISIONS.

1. Warrants to be issued to widows or heirs of claimants. To be deemed personal chattels, and to pass by assignment.
2. Warrants under act of 1855 to be assignable.
3. Certain locations confirmed.
4. Certain assignments validated. Patents to issue to assignees.
5. Location of certain warrants legalized.

6. In case of loss or destruction, new warrants may be issued. Originals to be void. No patent to issue in pursuance of a location thereon, except on proof of good faith and consideration.
7. Secretary to prescribe regulations. False swearing punished.

### II. VIRGINIA LAND WARRANTS.

8. Construction of act of 1852.

### I. GENERAL PROVISIONS.

3 June 1858 § 1.  
11 Stat. 308.

Warrants to be issued to widows or heirs of claimants.

To be deemed personal chattels, and to pass by assignment.

Ibid. § 2.

Warrants under Act of 1855 to be assignable.

3 June 1858 § 1.  
11 Stat. 309.

Certain locations confirmed.

7 June 1860 § 1.  
12 Stat. 28.

Certain assignments validated.

Patents to issue to assignees.

23 June 1860 § 1.  
12 Stat. 90.

1. When proof has been or shall hereafter be filed in the pension office, during the lifetime of a claimant, establishing to the satisfaction of that office his or her right to a warrant for military services, and such warrant has not been or may not hereafter be issued until after the death of the claimant, and all such warrants as have been heretofore issued subsequent to the death of the claimant, the title to such warrant shall vest in the widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant. (a) And all such warrants, and all other warrants issued pursuant to existing laws, shall be treated as personal chattels, and may be conveyed by assignment of such widow, heirs or legatees, or by the legal representatives of the deceased claimant, for the use of such heirs or legatees only.

2. The provisions of the first section of the act approved March 22, 1852, (b) to make land warrants assignable, and for other purposes, shall be so extended as to embrace land warrants issued under the act of the 3d March 1855. (c)

3. In all cases in which locations have been made with bounty land warrants, on lands which were subject to entry at private sale, but upon individual competition were put up to the highest bidder, and the excess paid for in cash, such locations shall be and they are hereby confirmed, if in all other respects regular; and authority is hereby given to issue patents accordingly: *Provided*, That such confirmation shall only extend to cases existing prior to the passage of this act.

4. That all assignments of pre-emption bounty land warrant locations, at any of the land offices in the United States, made in good faith since the 19th day of October 1852, and prior to the 21st of May 1856, under instructions from the commissioner of the general land office of the former date, be and the same are hereby declared valid; and the secretary of the interior is hereby authorized to cause patents to be issued in the name of the assignee on all such locations as now remain suspended and have not been patented.

5. Warrants for bounty lands heretofore issued under the authority of the act entitled "An act to provide for satisfying claims for bounty lands for military services in the late war with Great Britain, and for other purposes," approved the 27th day of July,

(a) The attorney-general has placed the following construction on this act: 1. That a warrant issued after the death of the claimant who left a widow and children, inures to the widow's benefit alone. 2. When the deceased claimant has a widow with two sets of children, the warrant inures to the benefit of her heirs or

legatees. 3. Heirs are those who are so declared by the law of the claimant's domicile.

(b) Ante 108, pl. 44.

(c) Ante 98, pl. 7-11.

in the year 1842, and of the several acts reviving the same, approved the 26th day of June, in the year 1848, and the 8th day of February, in the year 1854, may be located in conformity with the general laws in force at any time within three years from the date of this act; and all entries and locations made with such warrants, since the 26th day of June, in the year 1858, shall be as valid and effectual as if the several acts aforesaid had not then expired.

23 June 1860.

6. Whenever it shall appear that any certificate or warrant, issued in pursuance of any law of the United States granting bounty land, has been lost or destroyed, whether the same had been sold and assigned by the warrantee or not, the secretary of the interior shall be and he is hereby authorized and required to cause a new certificate or warrant of like tenor to be issued in lieu thereof; which new certificate or warrant may be assigned, located and patented in like manner as other certificates or warrants for bounty land are now authorized by law to be assigned, located and patented; and in all cases where warrants have been or may be reissued, the original warrant, in whose hands it may be, shall be deemed and held to be null and void, and the assignment thereof, if any there be, fraudulent; and no patent shall ever issue for any land located therewith, unless such presumption of fraud in the assignment be removed by due proof that the same was executed by the warrantee in good faith and for a valuable consideration.

23 June 1860 § 1.  
12 Stat. 90.

In case of loss or destruction, new warrants may be issued.

Originals to be void.  
No patent to issue in pursuance of a location thereon, except on proof of good faith, &c.

7. That the said secretary of the interior shall be and he is hereby authorized and required to prescribe such rules and regulations for carrying this act into effect as he may deem necessary and proper, in order to protect the government against imposition and fraud by persons claiming the benefit of this act; and all laws and parts of laws for the punishment of false swearing and frauds against the United States are hereby made applicable to false swearing and fraud under this act.

Ibid. § 2.

Secretary to prescribe regulations.  
False swearing punished.

## II. VIRGINIA LAND WARRANTS.

8. That the secretary of the interior, in executing the provisions of the act passed August 31st 1852, (a) entitled "An act making further provision for the satisfaction of Virginia land warrants," be required so to construe the same as to authorize the satisfaction in scrip of all warrants or parts of warrants issued on allowances made by the executive of Virginia prior to the first day of March 1852, coming within the principles already recognised by the department of the interior in the execution of the provisions of the said act, and whether issued before or since the first day of March 1852: *Provided, however,* That no warrant or part of a warrant shall be satisfied in scrip, founded or issued on any allowance made by the executive of Virginia since the first day of March 1852.

22 June 1860 § 1.  
12 Stat. 84.

Construction of act of 1852.

(a) Ante 102, pl. 36-7.

# California.

[See CIRCUIT COURTS, 4.]

## I. CIRCUIT COURTS.

1. Terms of the circuit court.

## II. LAND CLAIMS.

2. District courts may issue subpoenas to other districts within the state. And attachments for witnesses. Fees of witnesses.

3. Punishment for forgery of evidence of title. For uttering such forged documents.

4. For forgery of Mexican documents.

5. For presenting to any court, &c., such forged documents, knowing the same to be counterfeit. For prosecuting suits founded on such forged documents.

6. Notice of survey of private land claims to be published.

7. To be certified into court, on application of party in interest.

8. Proceedings on application to certify a private survey into court. District attorney to represent all parties intervening.

9. Courts to make rules of practice.

10. How testimony to be taken. Decree. Surveyor-general to conform to the decree.

11. When patents to issue. Limitation of appeal. Effect of decree.

12. Compensation of judges.

13. Payment of costs.

14. How records to be certified to the supreme court. Clerks Duty of clerks of district courts. Penalty for neglect.

## III. LAND OFFICERS.

15. Additional districts. Powers of the president.

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## IV. PUBLIC ARCHIVES.

17. Public archives to be collected, and deposited in surveyor-general's office. Certified copies to be evidence. Schedule to be made.

18. If concealed, search-warrant to issue.

19. Punishment for abstracting, mutilating or concealing such records.

20. Punishment for interpolating false records in the public archives.

## V. COLLECTION DISTRICTS.

21. Certain districts abolished and attached to San Francisco. Inspectors to be appointed.

22. Compensation of officers of customs. Office of additional appraiser-general abolished.

## I. CIRCUIT COURTS.

1. The circuit court for the districts in California shall be held at the city of San Francisco and the city of Los Angeles, in said state, at the same times now prescribed by law for holding terms of the district courts for the northern and southern districts of said state at said places. (a)

3 March 1863 § 4.  
12 Stat. 794.

Terms of circuit court.

## II. LAND CLAIMS.

2. In cases pending in the district courts of the United States in California, on

11 May 1858 § 1.  
11 Stat. 257

(a) See "Circuit Courts," 4.

11 May 1858.

District courts  
may issue sub-  
poenas to other  
districts within  
the state.

And attachments  
for witnesses.

Fees of witnesses.

18 May 1858 § 1.  
11 Stat. 290.

Punishment for  
forgery of evi-  
dences of title.

For uttering  
such forged docu-  
ments.

Ibid. § 2.

For forgery of  
Mexican docu-  
ments.

Ibid. § 3.

For presenting to  
any court, &c.,

appeal from the decree of the commissioners to ascertain and settle the private land claims in the state of California, under the act of congress passed March 3d 1851, (a) if either party shall desire to examine any witness residing in any other district within said state, or shall require the production of any paper, written instrument, book or document, supposed to be in the possession or power of a witness residing in another district, the court wherein the case is pending, or any judge thereof, being satisfied, by affidavit or otherwise, of the materiality of such witness, or of the production of such paper, written instrument, book or document, as evidence of the case, may order the clerk of said court to issue a *subpoena*, or a *subpoena duces tecum* for such witness and for such paper, written instrument, book or document; which *subpoena*, or *subpoena duces tecum*, shall run into any other district in said state, and be served by the marshal of either district, as the court or judge may direct: And the court or judge ordering said writ shall have power to enforce obedience to said process, and punish disobedience by attachment, and in like manner as if said witness resided within the district where the cause may be pending; and all attachments and process necessary to enforce obedience or punish disobedience to the aforesaid writs of *subpoena*, and *subpoena duces tecum*, may be served and executed by the marshal of either district, as the court or judge may direct: *Provided*, That a witness attending the court under a *subpoena* issued under the provisions of this act, in a district in which he does not reside, shall be entitled to the same fees for attendance as are allowed by the laws of the state of California to witnesses in similar cases.

3. If any person shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or willingly aid and assist in the false making, altering, forging or counterfeiting, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, title, confirmation, *diseño*, map, *espediente* or part of an *espediente*, or any title-paper or evidence of right, title or claim to lands, mines or minerals in California, or any instrument of writing whatever in relation to lands, or mines, or minerals in the state of California, for the purpose of setting up or establishing against the United States any claim, right or title to lands, mines or minerals within the state of California, or for the purpose of enabling any person to set up or establish any such claim; or if any person for the purposes aforesaid, or either of them, shall utter or publish as true and genuine, any such false, forged, altered or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, *diseño*, map, *espediente* or part of an *espediente*, title-paper, evidence of right, title or claim to lands or mines or minerals in the state of California, or any instrument of writing whatever in relation to lands, or mines, or minerals in the state of California, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, and not more than ten years, and shall be fined not exceeding ten thousand dollars.

4. If any person shall make, or cause or procure to be made, or shall willingly aid and assist in making any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, *diseño*, map, *espediente* or part of an *espediente*, or any title-paper or written evidence of right, title or claim, under Mexican authority, to any lands, mines or minerals in the state of California, or any instrument of writing in relation to lands, or mines, or minerals in the state of California, having a false date, or falsely purporting to be made by any Mexican officer or authority, prior to the 7th day of July, A. D. 1846, for the purpose of setting up or establishing any claim against the United States, to lands or mines or minerals within the state of California, or of enabling any person to set up or establish any such claim; or if any person shall sign his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession or denouncement under Mexican authority, and during its existence in California, of lands, mines or minerals, or falsely purporting to be an *informe*, report, record, confirmation, or other proceeding on an application for a grant, concession or denouncement under Mexican authority, during its existence in California, of lands, mines or minerals, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, nor more than ten years, and shall be fined not exceeding ten thousand dollars.

5. If any person, for the purpose of setting up or establishing any claim against the United States to lands, mines or minerals within the state of California, shall present, or cause or procure to be presented, before any court, judge, commission, or commis-

(a) Under this act, grantees under the claim may prosecute it in the name of the original claimant. *United States v. Sutter*, 21 How. 171.

sioner, or other officer of the United States, any false, forged, altered or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, diseflo, map, espediente or part of an espediente, title-paper or written evidence of right, title or claim to lands, minerals or mines in the state of California, knowing the same to be false, forged, altered or counterfeited, or any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseflo, map, espediente or part of an espediente, title-paper or written evidence of right, title or claim to lands, mines or minerals in California, knowing the same to be falsely dated; or if any person shall prosecute in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines or minerals in California, or shall, after the passage of this act, continue to prosecute any claim now pending in said courts against the United States for lands, mines or minerals in California, which claim is founded upon, or evidenced by, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseflo, map, espediente or part of an espediente, title-paper or written evidence of right, title or claim, which has been forged, altered, counterfeited or falsely dated, knowing the same to be forged, altered or counterfeited, or falsely dated, the person so offending shall be deemed and adjudged guilty of a misdemeanor; and, on conviction thereof, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, nor more than ten years, and shall be fined not exceeding ten thousand dollars.

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such forged documents, knowing the same to be counterfeit.

For prosecuting suits founded on such forged documents.

6. Whenever the surveyor-general of California shall, in compliance with the 13th section of an act entitled "An act to ascertain and settle [the] private land claims in the state of California," approved March 3d 1851,(a) have caused any private land claim to be surveyed and a plat to be made thereof, he shall give notice that the same has been done, and the survey and plat approved by him, by a publication once a week for four weeks in two newspapers, one published in the city of San Francisco, and one of which the place of publication is nearest the land, if the land is situated in the northern district of California; and once a week for four weeks in two newspapers, one published in Los Angeles, and one of which the place of publication is nearest the land, if the land is situated in the southern district of California; and until the expiration of such time the survey and plat shall be retained in his office, subject to inspection.

14 June 1860 § 1. 12 Stat. 33.

Notice of survey of private land claims to be published.

7. The district courts of the United States for the northern and southern districts of California are hereby authorized, upon the application of any party interested, to make an order requiring any survey of a private land claim within their respective districts to be returned into the district court for examination and adjudication, and on the receipt of said order, duly certified by the clerk of either of said courts, it shall be the duty of the surveyor-general to transmit said survey and plat forthwith to the said court.

Ibid. § 2.

To be certified into court on application of party in interest.

8. Said order shall be granted by said courts on the application of any party whom the district courts or the judge thereof, in vacation, shall deem to have such an interest in the survey and location of a land claim as to make it just and proper that he should be allowed to take testimony and to intervene for his interest therein; and if objections to the survey and location shall be made on the part of the United States, the order to return the survey into court shall be made on the motion of the district attorney founded on sufficient affidavits; and if the application for such order is made by other parties claiming to be interested in or that their rights are affected by such survey and location, the court or the judge in vacation shall proceed summarily, on affidavits or otherwise, to inquire into the fact of such interest, and shall in its discretion determine whether the applicant has such an interest therein as, under the circumstances of the case, to make it proper that he should be heard in opposition to the survey, and shall grant or refuse the order to return the survey and location as shall be just: *Provided, however,* That all parties claiming interest under pre-emption, settlement or other right or title derived from the United States shall not be permitted to intervene separately; but the rights and interests of said parties shall be represented by the district attorney of the United States, intervening in the name of the United States, aided by counsel acting for said parties jointly if they think proper to employ such counsel: *And provided further,* That before proceeding to take the testimony, or to determine on the validity of any objection so made to the survey and location as aforesaid, the said courts shall cause notice to be given by public advertisement, or in some other form to be prescribed by their rules, to all parties in interest, that objection has been made to such survey and location, and admonishing all parties in interest to intervene for the protection of such interest; and the said courts shall adopt rules providing for the prompt and summary decision of all controversies on surveys and locations that may arise under the provisions of this act.

Ibid. § 3.

Proceedings on application to certify a private survey into court

District attorney to represent all parties intervening.

Notice.

Courts to make rules of practice.

(a) Ante 112, pl. 46.

- 14 June 1860 § 4.** 9. When on the application of the party or parties interested as aforesaid, in said survey and location, the same shall be returned into court, the said parties may proceed to take testimony as to any matters necessary to show the true and proper location of the claim, such testimony to be taken in such manner by deposition or otherwise, or by commission, as the court may direct, and on hearing the allegations and proofs the court shall render judgment thereon; and if, in its opinion, the location and survey are erroneous, it is hereby authorized to set aside and annul the same, or correct and modify it; and it is hereby made the duty of the surveyor-general, on being served with a certified copy of the decree of said court, forthwith to cause a new survey and location to be made, or to correct and reform the survey and location already made, so as to conform to the decree of the district court, to whom it shall be returned for confirmation and approval.
- How testimony to be taken.**
- Decree.**
- Surveyor-general to conform to the decree.**
- Ibid. § 5.** 10. When, after publication as aforesaid, no application shall be made to the said court for the said order, or when said order has been refused, or when an order shall have been obtained as aforesaid, and when the district court by its decree shall have finally approved said survey and location, or shall have reformed or modified the same, and determined the true location of the claim, it shall be the duty of the surveyor-general to transmit, without delay, the plat or survey of the said claim to the general land office, and the patent for the land as surveyed shall forthwith be issued therefor; and no appeal shall be allowed from the order or decree as aforesaid of the said district court, unless applied for within six months from the date of the decree of said district courts, but not afterwards; and the said plat and survey so finally determined by publication, order or decree, as the case may be, shall have the same effect and validity in law as if a patent for the land so surveyed had been issued by the United States.
- When patents to issue.**
- Limitation of appeal.**
- Effect of decree.**
- Ibid. § 6.** 11. All surveys and locations heretofore made and approved by the surveyor-general of California, which have been returned into the said district courts, or either of them, or in which proceedings are now pending for the purpose of contesting or reforming the same, are hereby made subject to the provisions of this act, except that in the cases so returned or pending no publication shall be necessary on the part of the surveyor-general.
- To apply to pending cases.**
- Ibid. § 7.** 12. For the performance of the duties imposed by this act, and the act entitled "An act to ascertain and settle [the] private land claims in the state of California, passed March 3d 1851," there shall be allowed to the judges of the northern and southern districts of California, as follows: To the judge of the northern district such a sum as will, when added to his fixed and permanent salary allowed by law and received by him, make his compensation amount to the sum of six thousand dollars per annum, and such additional compensation to be computed from the 1st day of January 1852; and to the judge of the southern district such a sum as will, when added to his fixed and permanent salary allowed by law and received by him, make his compensation amount to the sum of thirty-five hundred dollars, such compensation to be computed and allowed from the date of his appointment to said office, and to continue each for and during the performance of the additional services required to be performed by this act, but not exceeding two years from and after the passage of this act.
- Compensation of judges.**
- Ibid. § 8.** 13. All costs of surveys and publications, under the provisions of this act, shall be charged to and paid by the United States, and costs of litigation in the district courts shall abide the result thereof, and the court in its discretion may require security therefor.
- Payment of costs.**
- 6 August 1861 § 2. 12 Stat. 320.** 14. The district attorney of the United States of any district in California may transcribe and certify to the supreme court of the United States the records of the district court of his proper district in all land cases wherein the United States is a party, upon which appeals have been or may be taken to the supreme court of the United States; and records so certified by such district attorney under his hand, and filed in the supreme court of the United States, shall be taken as true and valid transcripts, to the same intent and purpose as if certified by the clerk of the proper district court; and the said district attorneys for the districts of California shall be authorized to employ such clerks, not exceeding three in number, as may be necessary to transcribe such records, at a compensation, for each of such clerks, not exceeding one hundred and fifty dollars per month, which shall be paid out of the appropriation for special and other extraordinary expenses of California land claims; and it shall be the duty of the clerk of any district court in California, on request of the district attorney of that district, to deliver to him the records in the cases before mentioned on which appeals have been or may be taken, for the purpose of having them transcribed; and upon refusal or failure to do so, such clerk shall forfeit and pay to the United States the sum of five thousand dollars for each offence, to be recovered in an action of debt in any court of competent
- How records to be certified to supreme court.**
- Clerks.**
- Duty of clerks of district courts.**
- Penalty for neglect.**

jurisdiction; and such clerk shall, moreover, be incapable of holding his said office of clerk, or any office under the United States.

6 August 1861.

### III. LAND OFFICES.

15. That the president of the United States be and he is hereby authorized to establish additional land districts, in his discretion, not exceeding three, in the state of California, and to fix, from time to time, the boundaries thereof, as the public interest may require; which districts shall, respectively, be named after the places at which the offices shall first be established. And the president shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of any and all of the land districts in said state, and remove the offices when the same shall be expedient.

20 March 1858 § 1.  
11 Stat. 262.

Additional districts.

Powers of the president.

16. The president is hereby authorized to appoint, by and with the advice and consent of the senate, or during the recess thereof and until the end of the next ensuing session, a register and a receiver for each of said additional districts, who shall, respectively, be required to reside at the site of the offices, shall be subject to the same laws and responsibilities, and whose compensation shall be the same as is now prescribed by law for other land offices in that state.

Ibid. § 2.

Registers and receivers.

### IV. PUBLIC ARCHIVES.

17. It shall be the duty of the secretary of the interior to cause to be collected and deposited in the surveyor-general's office in California, all official books, papers, instruments of writing, documents, archives, official seals, stamps or dies, that may be found in the unauthorized possession of any individual, relating to and used in the administration of government and public affairs in the department of Upper California, and which belonged to the government during the existence of Spanish or Mexican authority in Upper California; and the same, when deposited in his office, shall be safely and securely kept by the surveyor-general in the archives of his office; and copies thereof, authenticated by the surveyor-general under the seal of his office, shall be evidence in all cases where the originals would be evidence: *Provided*, That at the time of depositing said books, papers, writings and documents in said archives, a schedule and accurate description thereof shall be made by the surveyor-general, with a statement of the time and place where the same were found, and when they were deposited in the archives, which shall be certified under the seal of the surveyor-general, and filed in his office; and a certified copy of said schedule shall be transmitted to the commissioner of the general land office, and also to the attorney-general.

18 May 1858 § 1.  
11 Stat. 269.

Public archives to be collected, and deposited in surveyor-general's office.

Certified copies to be evidence.

Schedule to be made.

And copy transmitted to general land office, &c.

Ibid. § 2.

If concealed, search-warrant to issue.

18. If the surveyor-general shall have cause to suspect a concealment of any such official books, papers, writings, documents, archives, or official seals, stamps or dies aforesaid, in any particular dwelling-house, building or place, any judge or commissioner of the United States may, on affidavit showing the facts and circumstances upon which such suspicions are founded, grant to the surveyor-general, or to any marshal of the United States, a warrant to enter such house, building or place, and there to search for such official books, papers, writings, documents, archives, seals, stamps or dies, and to take possession thereof and deposit them in the archives of the surveyor-general's office as aforesaid.

Ibid. § 3.

Punishment for abstracting, mutilating or concealing such records.

19. If any person shall, without lawful authority, wilfully take from the archives of the said surveyor-general's office any expediente, map, diseño, book, paper, writing, record, document, seal, stamp or die; or shall wilfully alter, deface, mutilate, injure or destroy any expediente, book, paper, map, diseño, instrument of writing, document, record, seal, stamp or die deposited in said archives; or shall conceal or unlawfully withhold from the possession of the surveyor-general, or on demand refuse to deliver to him any expediente, map, diseño, official book, paper, writing, document, archive, record, seal, stamp or die, relating to or used in the administration of government in the department of Upper California, and belonging to the government during the existence of Spanish or Mexican authority in said department; or shall wilfully alter, deface, mutilate, make away with or destroy any such official book, expediente, map, diseño, paper, writing, document, archive, record, seal, stamp or die; the person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof in any court of competent jurisdiction, shall forfeit and pay a fine, not exceeding ten thousand dollars, at the discretion of the court, and be imprisoned for a term not exceeding ten years, at the like discretion.

Ibid. § 4.

Punishment for interpolating false records in the public archives.

20. If any person shall wilfully, secretly and fraudulently place or cause to be placed in or among the archives of the surveyor-general's office, any expediente, book, paper, diseño, map, draught, record or any instrument of writing purporting to be a petition, decree, order, report, concession, grant, confirmation, map, diseño, expediente or part of an expediente, denouncement, title-paper or evidence of right, title or claim to any land, mine or mineral, or any book, writing, paper or document whatever, the person so

18 May 1858.

offending shall be deemed and adjudged guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction, shall forfeit and pay a fine not exceeding five thousand dollars, and be imprisoned for a term not exceeding three years; or be both fined and imprisoned within said limits, at the discretion of the court.(a)

## V. COLLECTION DISTRICTS.

2 June 1862 § 1.  
12 Stat. 411.

Certain districts  
abolished and at-  
tached to San  
Francisco.

Inspectors to be  
appointed.

Ibid. § 2.

Compensation of  
officers of cus-  
toms.

Office of addition-  
al appraiser-ge-  
neral abolished.

21. The collection districts of Monterey, San Diego, Sacramento, Sonoma, San Joaquin and San Pedro, heretofore established by law, are hereby abolished, and the same attached to the collection district of San Francisco; and there shall be appointed, in the usual manner, an inspector at each of the following places: Monterey, San Diego, Sacramento, Benicia, Stockton, San Pedro; and the salary of each of the said inspectors shall be one thousand dollars per annum.

22. The annual compensation of the collector of the customs for the district of San Francisco shall be six thousand dollars; of the naval officer, four thousand five hundred dollars; of the surveyor, four thousand dollars; of the principal appraisers, twenty-five hundred dollars each; and of the assistant appraisers, two thousand dollars each; and the office of an additional appraiser-general to be employed on the Pacific coast, created by the act of congress entitled "An act making appropriations for the civil and diplomatic expenses of the government for the year ending the 30th of June 1854," approved March 3d 1853, be and the same is hereby abolished.

(a) The jurisdiction of the board of commissioners for the settlement of private land claims in California, and of the courts of the United States on appeal, extends not only to the adjudication of questions relating to the genuineness and authenticity of the

grant, and others of a similar character, but also all questions relating to its location and boundaries; and does not terminate until the issuing of a patent conformably to the decree. *United States v. Fossatt*, 21 How. 445.

## Census.

## 1. Clerks in the census office.

5 May 1860 § 1.  
12 Stat. 14.

Clerks in the cen-  
sus office.

1. There may be employed in the census office one chief clerk, and, at the discretion of the secretary of the interior, such other clerks of the first class as the requirements of the service may demand, of whom the secretary may advance from time to time, not more than ten to the second class, nine to the third class, and six to the fourth class.

## Circuit Courts.

## I. ORGANIZATION OF THE CIRCUIT COURTS.

1. Fourth, fifth, sixth, seventh, eighth, and ninth circuits.  
Terms.

2. Circuit court powers of certain district courts to cease.

3. Wisconsin added to the ninth circuit.

4. Tenth circuit established.

5. Circuit court powers of district courts abolished. Circuit courts to be held in California and Oregon.

6. Transfer of pending causes. Clerks.

## II. MISCELLANEOUS PROVISIONS.

7. In case of disability, any other circuit judge may hold the court.

8. Re-transfer of causes may be ordered. How tried. How vacancies in office of marshal or district attorney may be temporarily filled. Bond of clerk and marshals.

## I. ORGANIZATION OF THE CIRCUIT COURTS.

15 July 1862 § 1.  
12 Stat. 576.

Fourth circuit.

Fifth circuit.

Sixth circuit.

Seventh circuit.

Eighth circuit.

Ninth circuit.

Terms.

1. Hereafter the districts of Maryland, Delaware, Virginia and North Carolina shall constitute the fourth circuit; the districts of South Carolina, Georgia, Alabama, Mississippi and Florida shall constitute the fifth circuit; the districts of Louisiana, Texas, Arkansas, Kentucky and Tennessee shall constitute the sixth circuit; the districts of Ohio and Indiana shall constitute the seventh circuit; the districts of Michigan, Wisconsin and Illinois shall constitute the eighth circuit, and the districts of Missouri, Iowa, Kansas and Minnesota shall constitute the ninth circuit; and the circuit courts in the districts heretofore included within any circuit of the United States, which by this act are attached to a different circuit, shall be held at the same times and places as are now prescribed by law, and the circuit courts in districts which by this act are for the first time attached to circuits, shall be held at the same times and places as are now prescribed by law for holding the district courts in said districts, except in the district of Iowa, in which the circuit court shall be holden, at the capital of the state, on the second Tuesday in May and November of each year, at which times and place terms of the district court shall be holden: *Provided*, This act shall not interfere with the terms of said district court now provided by law for said district. The allotment of their chief justice and the associate justices of the said supreme court to the several circuits shall be made as heretofore.

2. That so much of any act or acts of congress as vests in the district courts of the United States for the districts of Texas, Florida, Wisconsin, Minnesota, Iowa and Kansas, or either of them, the power and jurisdiction of circuit courts, be and the same is hereby repealed; and there shall hereafter be circuit courts held for said districts by the chief or associate justices of the supreme court, assigned or allotted to the circuit to which said districts may respectively belong, and the district judges of such districts severally and respectively, either of whom shall constitute a quorum; which circuit courts and the judges thereof, shall have like powers and exercise like jurisdiction as other circuit courts and the judges thereof; and the said district courts and the judges thereof shall have like powers and exercise like jurisdiction as the district courts and the judges thereof in the other circuits. (a)

16 July 1862 § 2.

Circuit court powers of certain district courts to cease.

3. That the state of Wisconsin shall be and is hereby made a part of the ninth judicial circuit of the United States.

9 Feb. 1863 § 1.  
12 Stat. 648.

4. The districts of California and Oregon shall constitute the tenth circuit, and the other circuits shall remain as now constituted by law.

3 March 1863 § 1.  
12 Stat. 794.

5. That so much of any act or acts of congress as vests in the district courts in and for the said states of California and Oregon, or either of them, the power and jurisdiction of circuit courts, and the act entitled "An act to establish a circuit court of the United States in and for the state of California," approved March 2d 1855, be and the same are hereby repealed, and the said circuit court is hereby abolished; and there shall hereafter be circuit courts held for the districts of the states of California and Oregon by the chief justice or one of the associate justices of the supreme court of the United States assigned or allotted to the circuit to which such districts may respectively belong, and the district judges of such districts, severally and respectively, either of whom shall constitute a quorum, which circuit courts and the judges thereof shall have like powers and exercise like jurisdiction as other circuit courts and the judges thereof; and the district courts in and for the several districts in and for said states of California and Oregon, and the judges thereof, shall have like powers and exercise like jurisdiction as the district courts and the judges thereof in the other circuits.

Ibid. § 2.

Circuit court powers of district courts abolished.

6. All actions, suits, prosecutions, causes, pleas, process and other proceedings relative to any cause, civil or criminal (which might have been brought and could have been originally cognisable in a circuit court as established by this act), now pending in or returnable to the several district courts of the United States in the said states of California and Oregon, or now pending in or returnable to the circuit court of California, by this act abolished, acting as circuit courts (or so empowered to act) shall be and are hereby declared to be respectively transferred, returnable and continued to the several circuit courts constituted by this act, to be holden within said districts respectively, and shall be heard, tried and determined therein, in the same manner as if originally brought, entered, prosecuted or had in such circuit courts; and no bail-bond or recognisance taken in any of said actions, suits, prosecutions or causes transferred to said circuit courts by this act shall thereby be avoided, impaired or invalidated; and the said circuit courts shall be governed by the same laws and regulations as apply to the other circuit courts of the United States; and the clerks of said courts respectively shall perform the same duties and shall be entitled to receive the same fees and emoluments which are by law established for the clerks of the other circuit courts of the United States.

Ibid. § 3.

Transfer of pending causes.

## II. MISCELLANEOUS PROVISIONS.

7. Whenever the judge of the supreme court for any circuit, from disability, absence, the accumulation of business in the circuit court in any district within his circuit, or from his having been of counsel or being interested in any case pending in such circuit court, or from any other cause, shall deem it advisable that the circuit court in such district shall be holden by the judge of any other circuit, he may request, in writing, the judge of any other circuit to hold the circuit court in such district, during a time to be named in such request; and such request shall be entered upon the journal of the circuit court so to be holden. And thereupon it shall be lawful for the judge so requested to hold the circuit court in such district, and to exercise all the powers of the judge of such circuit within and for such district during the time named in such request.

3 March 1863 § 1.  
12 Stat. 768.

In case of disability, any other circuit judge may hold the court.

8. The judge of any circuit may order any civil cause certified into any circuit court within his circuit from any court of the United States, to be certified back to the court whence it came; and in such case such cause shall be proceeded in by such court, in all respects, as if the same had not been certified from it: *Provided*, That if from any cause it shall be improper for the judge of such court to try any such cause so certified

Ibid. § 2.

Retransfer of cases may be ordered.

(a) The 3d section of this act provides for the transfer of pending causes. And the act 3 March 1863 provides for the issuing of process on final judgments. 12 Stat. 807.



3 March 1863.

How tried.

How vacancies in office of marshal or district attorney may be temporarily filled.

Bonds of clerks and marshals.

back, the same shall be tried by some other judge holding such court, pursuant to the provisions of this act. Whenever, by reason of death or resignation, there shall be no judge of any circuit, the chief justice of the supreme court of the United States may make the requests herein provided for, which shall be operative until such circuit shall be assigned to another judge. In case of a vacancy in the office of marshal or district attorney in any circuit, the judge of such circuit may fill such vacancy, and the person so appointed shall serve until an appointment shall be made by the president, and the appointee has duly qualified, and no longer; and the marshal so appointed shall give bond as if appointed by the president, and the bond shall be approved by such judge. The appointment so made shall be in writing, and such writing shall be filed in the clerk's office of the circuit court, and a copy thereof shall be entered upon the journal of such court. The clerk of every court shall give bond in such sum as may be fixed by the court, with sureties to be approved by the court, and a new bond may be required whenever the court shall deem it proper that such bond shall be given. Every marshal's bond so given shall be filed in the office of the clerk of the circuit court, and a copy thereof entered upon the journal of the court. A copy of every bond given by a clerk shall be entered on the journal of the court for which he is appointed, and the bond shall be deposited for safe keeping as the court may direct. A certified copy of such entry shall be *prima facie* proof of the execution of such bond, and of the contents thereof.

A petition for the removal of a cause from a state court under the act 2 March 1833 (129, pl. 20) must show, on its face, a case of such a nature that there is to be tried in it, a justification or excuse, in some way, arising under the revenue laws of the United States. *Salem and Lowell Railroad Co. v. Boston and Lowell Railroad Co.*, 21 Law Rep. 210.

A municipal corporation, as a county, may be sued in the federal courts. *McCoy v. Washington County*, 7 Am. L. R. 193.

The jurisdiction of the federal courts over controversies between citizens of different states cannot be impaired by the state laws. *Hyde v. Stone*, 20 How. 170.

It is not sufficient to give jurisdiction to a circuit court, that one of the parties is an alien; it must be a controversy between a citizen of a state and an alien. *Prentiss v. Brennan*, 2 Blatch. 162.

A citizen, who has removed to a foreign state, and taken an oath of allegiance to a foreign government, is not entitled to sue in the federal courts, as the citizen of a particular state. *Ibid.*

A case removed from a state court, under the act 2 March 1833 (129, pl. 20), stands on the same footing, in respect to the recovery of costs, as if commenced in the circuit court. *Coggill v. Lawrence*, 2 Blatch. 304.

An action against a collector, for withholding from an informer

the proceeds of goods condemned as forfeited for a breach of the revenue laws, may be removed from a state court, under the act 2 March 1833. *Van Zandt v. Maxwell*, 2 Blatch. 421.

A wife cannot be a citizen of a state different from that in which her husband is domiciled, so as to maintain a bill in equity against him, in the courts of the United States. *Dougherty v. Snyder*, 15 S. & R. 84, 90. It is otherwise, however, after a divorce *a mensa et thoro*; if, in such case, the husband remove to another state, the domicile of the wife is not thereby changed, and she may sue him in the federal courts. *Barber v. Barber*, 21 How. 582.

An action against a foreign corporation, commenced by summons, which is served by publication, and by attachment of the defendant's property, is removable into the circuit court under the 12th section of the judiciary act. *Barney v. Globe Bank*, 11 Am. L. R. 221.

The objection that the defendant is not an inhabitant nor found in the district at the time of serving the writ, cannot avail the plaintiff, where the defendant has appeared in the state court and removed the cause to the circuit court. *Ibid.*

An action to recover damages for the breach of an implied contract, is not within the clause excluding jurisdiction in case of the assignee of a chose in action, unless the assignor could have maintained a suit in the circuit court. *Ibid.*

## Clerks.

1. Additional clerks in the treasury department.
2. Additional clerks in the war department. Adjutant-general's office.
3. Additional clerks in the war department.
4. Additional clerks in the navy department.
5. Additional clerks in the offices of the surgeon-general, pay-

master-general, and adjutant-general.

6. Additional clerks in the office of the quartermaster-general.
7. Additional clerks in the treasury department. Navy department. Pension office. War department.
8. Second comptroller's office.

12 June 1855 § 4.  
11 Stat. 325.

Additional clerks.

27 July 1861 § 1.  
12 Stat. 277.

Additional clerks in the war department.

1. In addition to those now authorized by law, there may be employed by the secretary of the treasury, in the office of the register of the treasury, an additional clerk of the third class; and in the office of the treasurer of the United States, an additional clerk of the third class.

2. TEMPORARY CLERKS.—In the office of the secretary of war, one clerk of the first class, two of the second, two of the third, and one of the fourth, and two assistant messengers, at an annual salary of eight hundred and forty dollars each.

In the office of the quartermaster-general, five clerks of the first class, two of the second, two of the third, and one of the fourth, and two assistant messengers, at an annual salary of eight hundred and forty dollars each.

In the office of the commissary-general, three clerks of the first class, and two of the second.

In the office of surgeon-general, one clerk of the third class.

In the office of the paymaster-general, three clerks of the second class, and three of the third.

In the bureau of topographical engineers, two clerks of the third class.

In the ordnance bureau, two clerks of the first class.

And the adjutant-general is authorized to employ in his office any number, not exceeding ten, of non-commissioned officers, to be selected by him from the army, in addition to his present clerical force.

Adjutant-general's office.

3. In addition to the clerical and other force now authorized by law in the war department and its bureaus, the secretary of war is hereby authorized to appoint as follows: In the office of the secretary of war, four clerks of class one; in the office of the adjutant-general, eighteen clerks of class one, and two messengers; in the office of the quartermaster-general, ten clerks of class one, and one messenger; in the office of the surgeon-general, two clerks of class one, and one laborer; in the office of the paymaster-general, eight clerks of class one, and one messenger; in the office of the chief of engineers, one clerk of class one; in the office of the chief of ordnance, three clerks of class one; in the office of the commissary-general, three clerks of class one, and one laborer. And the adjutant-general is authorized to employ in his office any number, not exceeding ten, of non-commissioned officers, to be selected by him from the army, in addition to his present clerical force.

27 Jan. 1862 § 1.  
1. Stat. 333.  
Additional clerks  
in the war de-  
partment.

4. That the secretary of the navy be authorized to employ four additional clerks of class one for that department.

Ibid. § 2.

5. There shall be added to the clerical force of the surgeon-general's office one clerk of class one and one clerk of class two; and there shall be added to the clerical force of the paymaster-general's office twenty clerks of class two and twenty clerks of class one; and there shall be added to the clerical and other force of the adjutant-general's office four clerks of class two, six clerks of class one, and ten other clerks, at a monthly compensation of sixty dollars each; and the adjutant-general may detail ten more non-commissioned officers of the army as clerks in his office.

5 July 1862 § 3.  
12 Stat. 509.

Surgeon-general's office.  
Paymaster-general.  
Adjutant-general.

6. There shall be added to the clerical and other force in the office of the quartermaster-general, to be appointed by the secretary of war, four clerks of class four and ninety clerks of class one; also, thirty copyists and six laborers, at an annual compensation of six hundred dollars each.

7 Feb. 1863 § 1.  
12 Stat. 641.

Quartermaster-general.

7. In addition to the clerical force now authorized by law, the following clerks and employees are hereby authorized in the several departments and offices hereinafter specified, to be employed and continued only during the rebellion, and for one year after its close, viz.:

25 Feb. 1863 § 2.  
12 Stat. 694.

Additional clerks.

In the office of the secretary of the treasury, five clerks of class four.

Treasury department.

In the office of the second auditor of the treasury, three clerks of class four, eight of class three, twelve of class two, one assistant messenger at a salary of seven hundred dollars, and one laborer at a salary of six hundred dollars per annum.

In the office of the third auditor of the treasury, six clerks of class four, seven of class three, nine of class two and eighteen of class one, and ten clerks as copyists at a rate not exceeding fifty dollars per month.

In the office of the fifth auditor of the treasury, one clerk of class four, two of class three, four of class two, thirteen of class one, and six copying clerks at an annual salary of six hundred dollars each.

In the office of the assistant treasurer at Boston, one clerk at a salary of twelve hundred dollars per annum.

In the office of the assistant treasurer at New York, clerks, messengers, keeper and laborers, whose salaries in the aggregate shall not exceed eight thousand seven hundred dollars.

In the office of the treasurer of the mint as depository, in lieu of the clerks heretofore authorized, clerks and messenger, whose salaries in the aggregate shall not exceed five thousand five hundred dollars.

In the office of the assistant treasurer at St. Louis, messenger, watchman and laborer, whose salaries in the aggregate shall not exceed two thousand dollars.

In the office of the secretary of the navy, three clerks of the first class and three of the second class.

Navy department.

In the ordnance bureau of the navy, one chief clerk and three clerks of the second class.

In the bureau of provisions and clothing, two clerks of the first class and two of the second class.

In each of the bureaus of medicine and surgery, equipment and recruiting, and navigation, one laborer at an annual salary of six hundred dollars.

In the navy department, two additional night watchmen, each at an annual salary of six hundred dollars.

In the pension office, three clerks of class four, four of class three, four of class two, nine of class one, one additional assistant messenger at a salary of seven hundred dollars, and one additional laborer at a salary of six hundred dollars per annum, for the current year; five additional clerks of class four, six of class three, eight of class two and sixteen of class one, one additional assistant messenger at a salary of seven hundred

Pension office.

- 25 Feb. 1868. dollars, and one additional laborer at a salary of six hundred dollars per annum, for the fiscal year ending June 30th 1864.
- War department. In the office of the secretary of war, six clerks of class four and eight of class one. In the office of the chief of ordnance of the war department, three clerks of class four and twenty of class one. In the office of the adjutant-general, eight clerks of class two and twenty of class one. In the office of the commissary-general, twelve clerks of class one, and one laborer at a salary of six hundred dollars per annum. In the office of the surgeon-general, one clerk of class four, one of class three, two of class two and twenty-one of class one. In the office of the paymaster-general, four clerks of class three and sixteen of class one; and in the office of the chief of engineers, two clerks of class one. And the several clerks and other employees authorized by this section shall be appointed by the heads of the several departments to which they are severally attached.
- 3 March 1868 § 8. 8. In addition to the clerical force now authorized by law in the office of the second 12 Stat. 752. comptroller, the secretary of the treasury is hereby authorized to appoint as follows : Second comptrol- Four clerks of class four, four of class three and ten of class two, and one assistant ler's office. messenger at a salary of seven hundred dollars per annum; said additional force shall be employed and continued only during the rebellion, and for one year after its close.

## Coasting Trade.

Where a vessel has been enrolled and licensed, and prior to the expiration of the time limited by the license, is sold to a citizen of the United States, and continues running without a renewal of her license, she becomes liable to port fees and tonnage in every port at which she may arrive, the same as vessels not belonging to the United States; but the vessel does not thereby become denationalized. *United States v. The Forrester*, 1 Newb. 82. In a controversy, in which the question is, whether a steamboat was a foreign or domestic vessel, at the time the account accrued,

for which the libel is filed, the enrolment, made under oath by the managing owner, pursuant to the act 31 December 1792, § 3, (824, pl. 3), requiring the enrolment to be made at the port nearest the residence of the owner, is *prima facie* evidence that the boat belonged to such port. *Dudley v. The Superior*, 1 Newb. 176. An enrolment and license, duly executed, does not require delivery to give it validity. *United States v. The Planter*, 1 Newb. 282.

## Coast Survey.

### 1. Allowance for subsistence, on coast survey service.

- 12 June 1858 § 1. 1. The secretary of the treasury may make such allowances to the officers and men of the army and navy, while employed on coast survey service, for subsistence, in addition to their compensation, as he may deem necessary, not exceeding the sum authorized by the treasury regulation of the 11th May 1844. 11 Stat. 320.
- Allowance for subsistence, on coast survey service.

## Coinage.

### 1. Value of the silver florin of Austria.

- 2 March 1861 § 1. 1. That the new silver florin of Austria shall, in all computations at the custom-house, be estimated at forty-six cents and nineteen-hundredths of a cent. 12 Stat. 207.

The proviso to the 61st section of the act 2 March 1799 (154, pl. 22) is not repealed by the act 22 May 1846 (156, pl. 38). *Grant v. Maxwell*, 2 Blatch. 220. But in order to obtain the benefit of it, the party must produce the evidence prescribed by the treasury

regulations. *Dutilh v. Maxwell*, Ibid. 541. And see *Craig v. Maxwell*, Ibid. 546. *Dutilh v. Maxwell*, Ibid. 548. *Fiedler v. Maxwell*, Ibid. 552. *Reynolds v. Maxwell*, Ibid. 555. *Alsop v. Maxwell*, Ibid. 557.

# Colorado.

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18. Appointment of territorial officers. Oath of office. Salaries. Compensation of members of assembly. Contingent expenses.  
19. Seat of government.  
20. Delegate to congress.

## I. TERRITORIAL GOVERNMENT.

1. That all that part of the territory of the United States included within the following limits, viz.: commencing on the thirty-seventh parallel of north latitude, where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north on said meridian to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian to the northern line of New Mexico; thence along the thirty-seventh parallel of north latitude to the place of beginning; be and the same is hereby erected into a temporary government by the name of the territory of Colorado: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries and constitute no part of the territory of Colorado until said tribe shall signify their assent to the president of the United States to be included within the said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property or other rights, by treaty, law or otherwise, which it would have been competent for the government to make if this act had never passed: *Provided further*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory into two or more territories, in such manner and at such times as congress shall deem convenient and proper, or from attaching any portion thereof to any other territory or state.

23 Feb. 1861 § 1.  
12 Stat. 172.

Territory of Colorado.  
Boundaries.

Indian rights not to be impaired.

May be divided or attached to other states or territories.

## II. EXECUTIVE AUTHORITY.

2. The executive power and authority in and over said territory of Colorado shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs; he may grant pardons for offences against the laws of said territory, and reprieves for offences against the laws of the United States, until the decision of the president can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

2 March 1863 § 1.  
12 Stat. 700.

Governor.  
Term of office.  
Residence.  
His powers.

3. There shall be a secretary of said territory, who shall reside therein, and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor, in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the president of the United States, and, at the same time, two copies of the laws to the speaker of the house of representatives and the president of the senate for the use of congress. And in case of the death, removal or resignation, or other necessary absence of the governor from the territory, the secretary shall have, and he is hereby authorized and required to

23 Feb. 1861 § 3.  
12 Stat. 172.

Secretary.  
His powers.

When to act as governor.

28 Feb. 1861.

execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

### III. LEGISLATIVE POWER.

28 Feb. 1861 § 4.  
12 Stat. 173.

Constitution of  
the legislative  
assembly.

Council.

House of repre-  
sentatives.

Apportionment.

Residence.

Census.

First election.

New election in  
case of a tie vote.

Subsequent elec-  
tions.

Duration of ser-  
vices.

Ibid. § 5.

Qualifications of  
voters.

Ibid. § 6.

Extent of legisla-  
tive power.

Ibid. § 7.

Appointment of  
township, dis-  
trict and county  
officers.

Ibid. § 8.

Exclusion of  
members from  
office.

4. The legislative power and authority of said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of thirteen members, which may be increased to twenty-six, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and house of representatives, giving to each section of the territory representation in the ratio of its population (Indians excepted) as nearly as may be; and the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the territory to be taken; and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall at the same time declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected, having the highest number of votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected, having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.

5. Every free white male citizen of the United States above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, including those recognised as citizens by the treaty with the republic of Mexico, concluded February 2d 1848, and the treaty negotiated with the same country on the 30th day of December 1853, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly.

6. The legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of the act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall any law be passed impairing the rights of private property; nor shall any discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.

7. All township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

8. No member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or

appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said territory.

9. Every bill which shall have passed the legislative assembly shall, before it become a law, be presented to the governor of the territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return, in which case it shall not be a law.

IV. JUDICIARY.

10. The judicial power of said territory shall be vested in a supreme court, district courts, probate courts and justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually, and they shall hold their offices during the period of four years. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or when the debt or sum claimed shall exceed three hundred dollars; and the said probate court shall not have jurisdiction of any matter in controversy when the debt or sum claimed shall exceed the sum of two thousand dollars; and said supreme and district court shall have authority for redress of all wrongs committed against the constitution and laws of the United States; and the said supreme, district and probate court respectively shall possess chancery as well as common-law jurisdiction and authority, for the redress of all wrongs committed against the laws of said territory affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions and appeals shall be allowed from the final decisions of said district and probate courts to the supreme court, under such regulations as shall be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court or the justices thereof shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, (a) when the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party or other competent witness, shall exceed one thousand dollars; and each of said supreme and district courts shall have and exercise the same jurisdiction in all cases arising under the constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of said territory, and the respective judges thereof, shall and may grant writs of *habeas corpus*, in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeals in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Oregon territory received for similar purposes.

11. There shall be appointed an attorney for said territory, who shall continue in office for four years, unless sooner removed by the president, and who shall receive the same fees and salary as the attorney of the United States for the late territory of Oregon. There shall also be a marshal for the territory appointed, who shall hold his office for four years, unless sooner removed by the president, and who shall execute all processes

28 Feb. 1861.

2 March 1863 § 2.  
12 Stat. 700.

Veto power of the governor.

2 March 1863 § 3.  
12 Stat. 700.

Supreme court.

District courts.

Jurisdiction.

Justices of the peace.

Probate court.

Chancery powers, &c.

Clerks of district courts.

Errors and appeals.

Clerk of supreme court.

Jurisdiction of supreme court of the United States

Habeas corpus.

What causes to have precedence.

Fees of clerk.

28 Feb. 1861 § 10.  
12 Stat. 175.

District attorney

Marshal.

(a) The writ of error may be issued by the clerk of the territorial court, and the citation signed, and the bond approved by one of the judges. *Sheppard v. Wilson*, 5 How. 210.

28 Feb. 1861.

issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the late territory of Oregon, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

Ibid. § 15.

Judicial districts.

Terms.

12. Temporarily, and until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly at their first or any subsequent session may organize, alter or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

Ibid. § 16.

Laws of the  
United States ex-  
tended to Colora-  
do.

13. The constitution and all laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said territory of Colorado, as elsewhere within the United States.

## V. LANDS AND LAND OFFICES.

28 Feb. 1861 § 14.  
12 Stat. 176.

School lands.

14. When the land in the said territory shall be surveyed, under the direction of [the] government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six, in each township in said territory, shall be and the same are hereby reserved, for the purpose of being applied to schools in the states hereafter to be erected out of the same.

Ibid. § 17.

Surveyor-gene-  
ral.

15. The president of the United States, by and with the advice and consent of the senate, shall be and he is hereby authorized to appoint a surveyor-general for Colorado, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation and allowances for clerk hire, office rent, fuel and incidental expenses, shall be the same as those of the surveyor-general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give him.

2 June 1862 § 1.  
12 Stat. 413.

Pre-emption  
rights.

16. All the lands belonging to the United States to which the Indian title has been or shall be extinguished, shall be subject to the operations of the pre-emption act of the 4th of September 1841, and under the conditions, restrictions and stipulations therein mentioned: *Provided, however,* That when unsurveyed lands are claimed by pre-emption, notice of the specific tracts claimed shall be filed within six months after the survey has been made in the field; and on failure to file such notice, or to pay for the tract claimed within twelve months from the filing of such notice, the parties claiming such lands shall forfeit all right thereto, provided said notices may be filed with the surveyor-general, and to be noted by him on the township plats, until other arrangements have been made by law for that purpose.

Ibid. § 2.

Colorado land  
district.

Register and re-  
ceiver.

17. The public lands within the territory of Colorado to which the Indian title is or shall be extinguished, shall constitute a new land district, to be called the Colorado district; and the president is hereby authorized to appoint, by and with the advice and consent of the senate, a register and receiver of public moneys for said district, who shall be required to reside at the place at which said office shall be located, and they shall have the same powers, perform the same duties and be entitled to the same compensation, as are or may be prescribed by law in relation to land offices of the United States in the state of Kansas.

## VI. MISCELLANEOUS PROVISIONS.

28 Feb. 1861 § 11.  
12 Stat. 176.

Appointment of  
territorial offi-  
cers.

Oath of office.

18. The governor, secretary, chief justice and associate justices, attorney and marshal, shall be nominated and, by and with the advice and consent of the senate, appointed by the president of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice, or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths when so taken shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted

by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day, during their attendance at the session thereof, and three dollars for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor, to defray the contingent expenses of the territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the territory shall annually account to the secretary of the treasury of the United States for the manner in which the aforesaid sum shall have been expended.

23 Feb. 1861.

Salaries.

Compensation of members of assembly.

Contingent expenses.

19. The legislative assembly of the territory of Colorado shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

Ibid. § 12.

Seat of government.

20. A delegate to the house of representatives of the United States, to serve during each congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places and manner of holding elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

Ibid. § 13.

Delegate to congress.

## Commerce.

### 1. How annual statistics to be made up.

1. The annual statistical accounts of the commerce of the United States with foreign countries, required by existing laws, shall hereafter be made up and completed by the register of the treasury, under the direction of the secretary of the treasury, so as to comprehend and include, in tabular form, the quantity by weight or measure, as well as the amount of value, of the several articles of foreign commerce, whether dutiable or otherwise; and also a similar and separate statement of the commerce of the United States with the British provinces, under the late so called reciprocity treaty with Great Britain.

2 Mar. 1861 § 29.  
12 Stat. 197.

How annual statistics to be made up.

## Congress.

1. How compensation of members to be paid.
2. Payment to widow and heirs, in case of death of a member.
3. When compensation of member elected to fill a vacancy, to commence.
4. Number of members.
5. Representation of California.

6. Members to be elected by single districts.
7. Compensation of members elected to fill vacancies.
8. Military service an excuse for absence.
9. Penalty for absence.
10. Organization of congress.

1. That the compensation allowed to members of congress by an act entitled "An act to regulate the compensation of members of congress," approved August 16th 1856, be paid in the following manner, to wit: on the first day of the first session of each congress, or as soon thereafter as he may be in attendance and apply, each senator, representative and delegate shall receive his mileage, as now provided by law, and all his compensation

23 Dec. 1857 § 1.  
11 Stat. 367.

How compensation of members to be paid.



- 23 Dec. 1857. from the beginning of his term, to be computed at the rate of two hundred and fifty dollars per month, and during the session compensation at the same rate. And on the first day of the second or any subsequent session, he shall receive his mileage as now allowed by law, and all compensation which has accrued during the adjournment, at the rate aforesaid, and during said session compensation at the same rate.
- 3 March 1859 § 1. 2. Whenever, hereafter, any person elected a member of the senate or house of representatives shall die after the commencement of the congress to which he shall have been so elected, compensation shall be computed and paid to his widow, or if no widow survive him, to his heirs at law, for the period that shall have elapsed from the commencement of such congress as aforesaid, to the time of his death, at the rate of three thousand dollars per annum: *Provided, however*, That compensation shall be computed and paid in all cases for a period of not less than three months: *And provided further*, That in no case shall constructive mileage be computed or paid.
- Ibid.* § 2. 3. The compensation of each person elected or appointed afterwards to supply the vacancy so occasioned, shall hereafter be computed and paid from the time the compensation of his predecessor is hereby directed to be computed and paid for, and not otherwise.
- 4 Mar. 1862 § 1. 4. From and after the third day of March 1863, the number of members of the house of representatives of the congress of the United States shall be two hundred and forty-one; and the eight additional members shall be assigned one each to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont and Rhode Island. (a)
- 12 June 1862 § 1. 5. As the census has never been reliably taken in the state of California until the year 1860, and as it appears that the said state had sufficient population to entitle her to three representatives in the thirty-seventh congress, and as three representatives have been duly elected to the thirty-seventh congress under the supposition that the said state was entitled to the same, as appears by the certificate of the governor thereof, and as direct taxes have been apportioned to and paid by said state under the census of 1860, therefore the said state shall be allowed three representatives in the thirty-seventh congress, and for that purpose the whole number of representatives is hereby increased one, until the beginning of the thirty-eighth congress.
- 14 July 1862 § 1. 6. In each state entitled in the next and any succeeding congress to more than one representative, the number to which such state is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of representatives to which said state may be entitled in the congress for which said election is held, no one district electing more than one representative: *Provided*, That the provisions of this act shall not apply to the state of California so far as it may affect the election of representatives to the thirty-eighth congress: *And provided further*, That in the election of representatives to the thirty-eighth congress from the state of Illinois, the additional representative allowed to said state by an act entitled "An act fixing the number of the house of representatives from and after the 3d day of March 1863," approved March 4th 1862, may be elected by the state at large, and the other thirteen representatives to which the state is entitled by the districts as now prescribed by law in said state, unless the legislature of said state should otherwise provide before the time fixed by law for the election of representatives therein.
- 12 July 1862 § 1. 7. In all cases of a vacancy in either house of congress, by death or otherwise, of any member elected or appointed thereto, after the commencement of the congress to which he shall have been elected, each person afterwards elected or appointed to fill such vacancy shall be compensated and paid from the time that the compensation of his predecessor ceased: *Provided*, That no member shall receive for his compensation more than three thousand dollars for any one year.
- 17 July 1862 § 1. 8. Until the further order of congress, the secretary of the senate and the sergeant-at-arms of the house are directed to receive, as a valid excuse for absence from duty in congress, active employment in military service for the suppression of the rebellion without pay.
- Ibid.* § 2. 9. When any senator or representative shall hereafter withdraw from his seat in anticipation of the adjournment of congress, and before the adjournment, and does not
- (a) Under this and the following act, and the apportionment under the 8th census, the states have the following representation in congress.
- |                   |    |                      |    |                      |    |
|-------------------|----|----------------------|----|----------------------|----|
| Alabama .....     | 6  | Louisiana .....      | 5  | Ohio .....           | 19 |
| Arkansas .....    | 3  | Maine .....          | 5  | Oregon .....         | 1  |
| California .....  | 3  | Maryland .....       | 5  | Pennsylvania .....   | 24 |
| Connecticut ..... | 4  | Massachusetts .....  | 10 | Rhode Island .....   | 2  |
| Delaware .....    | 1  | Michigan .....       | 6  | South Carolina ..... | 4  |
| Florida .....     | 1  | Minnesota .....      | 2  | Tennessee .....      | 5  |
| Georgia .....     | 7  | Mississippi .....    | 5  | Texas .....          | 4  |
| Illinois .....    | 14 | Missouri .....       | 9  | Vermont .....        | 3  |
| Indiana .....     | 11 | New Hampshire .....  | 3  | Virginia .....       | 8  |
| Iowa .....        | 6  | New Jersey .....     | 5  | West Virginia .....  | 3  |
| Kansas .....      | 1  | New York .....       | 31 | Wisconsin .....      | 6  |
| Kentucky .....    | 9  | North Carolina ..... | 7  |                      |    |

return, he shall, in addition to the sum now deducted for each day, forfeit a further sum equal to the mileage now allowed by law for his return home, and it shall be deducted from his compensation, unless where said withdrawal is with the leave of the senate or house of representatives respectively.

10. Before the first meeting of the next congress, and of every subsequent congress, the clerk of the next preceding house of representatives shall make a roll of the representatives elect, and place thereon the names of all persons, and of such persons only, whose credentials show that they were regularly elected in accordance with the laws of their states respectively, or the laws of the United States.

17 July 1862.  
Penalty for absence.

3 March 1863 § 1.  
12 Stat. 804.

Organization of congress.

## Constitutional Law.

The jurisdiction of the district court, in cases of admiralty, does not rest upon the act of 1845, but upon the constitution of the United States. It is not limited to tide waters, but embraces the lakes and navigable rivers, through which commerce is carried on between different states, or with a foreign nation. *Francouet v. The Propeller F. W. Bachus*, 1 Newb. 1. *Farmlee v. The Propeller Charles Meurs*, *Ibid.* 197, 205.

The admiralty jurisdiction of the federal courts, under the constitution, embraces those subjects, whether of contract or tort, which, at the time the constitution was adopted, under the general maritime law, were the appropriate subjects of the jurisdiction of admiralty courts. *Scott v. The Propeller Young America*, 1 Newb. 101.

The laws of the United States "are the supreme laws," and cannot be changed or altered, modified or repealed, by state enactments. And a lien given by the maritime law is a right thus protected. *Harris v. The Steamboat Henrietta*, 1 Newb. 284.

A state legislature may, by contract, surrender the right of taxation, as to the property of a corporation; and a succeeding legislature has not the power to pass a law impairing the obligation of such contract. *State Bank of Ohio v. Knapp*, 16 How. 399. *Dodge v. Woolsey*, 18 *Ibid.* 331. *Mechanics' and Traders' Bank v. Deloit*, *Ibid.* 380. *Mechanics' and Traders' Bank v. Thomas*, *Ibid.* 384. *Jefferson Branch Bank v. Skelly*, 1 Black 436. *Franklin Branch Bank v. Ohio*, *Ibid.* 474. *Contra*, 6 Casey 9. 1 Ohio St. R. 563, 591, 623. 3 *Ibid.* 578, 586. 7 *Ibid.* 481.

The provision in the constitution that "no person shall be subject for the same offence, to be twice put in jeopardy of life or limb," only applies to capital offences. *Commonwealth v. McCreevy*, 5 Casey 323.

A court of the United States has no jurisdiction to restrain by injunction, the erection of a bridge over a navigable river, lying wholly within the limits of a particular state, where such erection is authorized by the legislature of the state, though a port of entry has been created by congress above the bridge. *Milnor v. New Jersey Railroad Co.*, 6 Am. L. R. 6.

The inhabitants of a territory ceded to the United States, by treaty, become citizens of the United States, without naturalization under the acts of congress. *Harrold's Case*, 2 Penn. L. J. 119.

In the clause of the constitution prohibiting a state from levying duties on imports, the term "imports" embraces only articles from foreign nations subject to the payment of duties to the United States, and not merchandise carried from one state to another. *State v. Pinckney*, 10 Richardson 474. See *Biddle v. Commonwealth*, 13 S. & K. 408. *Brown v. Maryland*, 12 Wh. 419.

The constitution does not restrain the right of each state to legislate as to the remedy on suits upon judgments in other states. *Bacon v. Howard*, 20 How. 23.

The mere grant in the constitution to congress of the power to regulate weights and measures, does not extinguish the right in

the states over the same subject, until congress shall have exercised the power conferred. *Weaver v. Fegely*, 6 Casey 27.

The provision in the constitution, that in a criminal prosecution, the accused shall have a right "to be informed of the nature and cause of the accusation," does not entitle him to a copy of the indictment, at the expense of the government. *United States v. Bickford*, 22 Law Rep. 273.

The provision of the constitution that the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states, does not confer on the citizens of a slave state the right of transit, with their slaves, through the territory of a free state, contrary to its laws. *Lemmon v. People*, 6 Smith (N. Y.) 563.

A state law imposing additional restrictions on vessels duly enrolled and licensed for the coasting trade, is unconstitutional and void. *Shunot v. Davenport*, 22 How. 227. *Foster v. Davenport*, *Ibid.* 245.

The privilege of the writ of *habeas corpus* can only be suspended by act of congress. *Ex parte Merryman*, 24 Law Rep. 78. 9 Am. L. R. 524.

The several states which compose the constitutional Union are not, with respect to it, either foreign or independent states; but are dependent and subordinate for all the specific purposes for which it was adopted. The General Parkhill, U. S. Dist. Court, E. Penn. 19 July 1861.

When the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts of justice cannot be kept open, civil war exists, and hostilities may be prosecuted for the restoration of the constitutional authority of the government, on the same footing as if those opposing it were foreign enemies invading the land. *Ibid.*

The president is required by the constitution to "take care that the laws be faithfully executed;" and, therefore, when hostilities actually waged against the constitution and laws acquire the dimensions of a general war, he must prosecute opposing hostilities, offensive as well as defensive, upon such a proportional scale, as may be necessary to re-establish, or to support and maintain the government. *Ibid.*

In a suit between two states the supreme court derives its original jurisdiction directly from the constitution. *Kentucky v. Ohio*, 24 How. 66.

A state law imposing a stamp duty on bills of lading is unconstitutional. *Almy v. California*, 24 How. 169.

As against rebels, the United States have both sovereign and belligerent rights: in establishing a blockade, they only exercise belligerent rights; as a sovereign, they might, by municipal regulation, interdict all commerce with ports in the states of the insurgents. *The Revere*, 24 Law Rep. 276. *The Amy Warwick*, *Ibid.* 335, 494. *The Brilliant*, 11 Am. L. R. 334. *The Hwathia*, 18 Leg. Int. 332. *The F. W. Johnson*, *Ibid.* 334.

## Consuls.

### I. APPOINTMENT OF CONSULS.

1. President may appoint consuls during the war. Compensation.
2. When to be subject to act of 1856. Further appointments not to be made.

### II. JUDICIAL POWERS OF MINISTERS AND CONSULS.

3. Judicial powers of ministers and consuls.
4. Criminal jurisdiction.
5. Civil jurisdiction.
6. How such jurisdiction to be exercised. Rules of decision.
7. Ministers to prescribe forms of process, &c. Rules to be submitted to consuls.
8. Regulations to be laid before congress for revision.
9. Criminal jurisdiction of consuls.
10. When without appeal. Limitation.
11. When subject to appeal.
12. When assessors to be called to the assistance of consuls.
- When decisions to be referred to the minister.
13. Civil jurisdiction under treaties.
14. Evidence to be in writing, &c.
15. Appellate jurisdiction of ministers.
16. Punishments.
17. Capital offences.

18. Executions in capital cases. Reprieves.
19. Fees. How appropriated.
20. Settlement of criminal cases.
21. Settlement of civil controversies. References.
22. Power of the local authorities may be invoked.
23. Jurisdiction in Turkey.
24. Who to be deemed ministers and consuls.
25. Responsibility of officers.
26. Trial of capital cases. Enforcement of neutrality laws.
27. Appointment of marshals. Compensation. Duties. Bonds.
- When original bond to be produced on plea of non est factum.
- Process against marshals.
28. Expenses of prisons and keepers to be allowed.
29. When ministers to have original jurisdiction.
30. Jurisdiction in Persia.
31. In Tripoli, Tunis, Morocco and Muscat.
32. In other uncivilized countries.
33. Marriages before consular officers regulated.

### III. MISCELLANEOUS PROVISIONS.

34. Salary of consul-general of British North America.
35. Fee for certifying invoices. When to be required.
36. Consular fees in certain cases.

### I. APPOINTMENT OF CONSULS.

2 August 1861 § 2.  
12 Stat. 285.

President may  
appoint consuls  
during the war.  
Compensation.

1. The president of the United States may, by and with the advice and consent of the senate, appoint consuls at any foreign ports where he shall deem it advisable, for the purpose of preventing piracy, with such compensation, not exceeding fifteen hundred dollars per annum, as he shall think proper; to hold their offices respectively during the pleasure of the president, and in every case such compensation to cease with the restoration of internal peace within the United States. And the president may, during the present insurrection, increase the compensation of any consuls in foreign ports, if he shall deem it necessary, so as not however to exceed the sum of fifteen hundred dollars in any case. But this power shall cease with the re-establishment of internal peace as aforesaid.

4 Feb. 1862 § 1.  
12 Stat. 336.

When to be sub-  
ject to act of  
1856.

Further appoint-  
ments not to be  
made.

2. *Provided*, That all consular officers whose respective salaries exceed one thousand dollars per annum shall be subject to the provisions of the fifth section of the act to regulate the diplomatic and consular systems of the United States, approved August 18th 1856; (a) and their respective consulates shall be included in schedule B of the list of salaried consulates: *And provided further*, That no appointments of consuls shall hereafter be made nor the compensation of consuls raised under the act of August 2d 1861, (b) except to the places herein mentioned.

### II. JUDICIAL POWERS OF MINISTERS AND CONSULS.

22 June 1860 § 1.  
12 Stat. 72.

Judicial powers  
of ministers and  
consuls.

3. To carry into full effect the provisions of the treaties of the United States with the empires of China, Japan and Siam respectively, the minister and the consuls of the United States duly appointed to reside in each of the said countries, shall, in addition to other powers and duties imposed upon them respectively by the provisions of such treaties respectively, be invested with the judicial authority herein described, which shall appertain to the said office of minister and consul, and be a part of the duties belonging thereto, wherein the same is allowed by treaty.

*Ibid.* § 2.  
Criminal juris-  
diction.

4. In regard to crimes and misdemeanors, the said public functionaries are hereby fully empowered to arraign and try, in the manner herein provided, all citizens of the United States charged with offences against law, which shall be committed in such countries respectively, and upon conviction to sentence such offenders in the manner herein authorized; and the said functionaries, and each of them, are hereby authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

*Ibid.* § 3.  
Civil jurisdiction.

5. In regard to civil rights, whether of property or person, the said functionaries are hereby invested with all the judicial authority necessary to execute the provisions of such treaties respectively, and shall entertain jurisdiction in matters of contract at the port where or nearest to which the contract was made, or at the port at which or nearest to which it was to be executed; and in all other matters at the port where or nearest to which the cause of controversy arose, or at the port where or nearest to which the damage complained of was sustained, any such port above named being always one of the ports at which the United States are represented by consuls; which jurisdiction shall embrace all controversies between citizens of the United States or others provided for by such treaties respectively.

6. Such jurisdiction in criminal and civil matters shall in all cases be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute such treaties respectively, extended over all citizens of the United States in the said countries (and over all others to the extent that the terms of the said treaties respectively justify or require), so far as such laws are suitable to carry the said treaties into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law, including equity and admiralty, shall be extended in like manner over such citizens and others in the said countries; and if defects still remain to be supplied, and neither the common law, including equity and admiralty, nor the statutes of the United States, furnish appropriate and suitable remedies, the ministers in the said countries respectively shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

22 June 1860.

How such jurisdiction to be exercised.

Rules of decision.

7. In order to organize and carry into effect the system of jurisprudence demanded by such treaties respectively, the said ministers, with the advice of the several consuls in each of the said countries respectively, or so many of them as can be conveniently assembled, shall prescribe the forms of all processes which shall be issued by any of said consuls; the mode of executing and the time of returning the same; the manner in which trials shall be conducted, and how the records thereof shall be kept; the form of oaths for Christian witnesses, and the mode of examining all other witnesses; the costs which shall be allowed to the prevailing party, and the fees which shall be paid for judicial services to defray necessary expenses; the manner in which all officers and agents to execute process and to carry this act into effect shall be appointed and compensated; the form of bail-bonds and the security which shall be required of the party who appeals from the decision of a consul; and generally, without further enumeration, to make all such decrees and regulations from time to time under the provisions of this act, as the exigency may demand; and all such regulations, decrees and orders shall be plainly drawn up in writing, and submitted as above provided, for the advice of the consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, who shall each signify his assent or dissent in writing, with his name subscribed thereto; and after taking such advice, and considering the same, the minister in the said countries respectively may, nevertheless, by causing the decree, order or regulation to be published with his signature thereto, and the opinions of his advisers inscribed thereon, make it to become binding and obligatory, until annulled or modified by congress; and it shall take effect from the publication, or any subsequent day thereto named in the act.

Ibid. § 5.

Ministers to prescribe forms of process, &amp;c.

Rules to be submitted to consuls.

8. All such regulations, orders and decrees shall, as speedily as may be after publication, be transmitted by the said ministers, with the opinions of their advisers, as drawn up by them severally to the secretary of state, to be laid before congress for revision.

Ibid. § 6.

Regulations to be laid before congress for revision.

9. Each of the consuls aforesaid, at the port for which he is appointed, shall be competent, under the authority herein contained, upon the facts within his own knowledge, or which he has good reason to believe true, or upon complaint made, or information filed in writing and authenticated in such way as shall be prescribed by the minister, to issue his warrant for the arrest of any citizen of the United States charged with committing in the country an offence against law; and when arrested to arraign and try any such offender; and upon conviction to sentence him to punishment in the manner herein prescribed; always meting out punishment in a manner proportioned to the offence, which punishment shall in all cases, except as is herein otherwise provided, be either fine or imprisonment.

Ibid. § 7.

Criminal jurisdiction of consuls.

10. Any consul, when sitting alone for the trial of offences or misdemeanors shall finally decide all cases where the fine imposed does not exceed one hundred dollars, or the term of imprisonment does not exceed sixty days. And there shall be no appeal therefrom, except as provided in section eleven of this act. But no fine imposed by a consul for a contempt committed in the presence of the court, or for failing to obey a summons from the same, shall exceed fifty dollars, nor shall the imprisonment exceed twenty-four hours for the same contempt.

Ibid. § 8.

When without appeal.

Limitation.

11. When sitting alone he may also decide all cases in which the fine imposed does not exceed five hundred dollars, or the term of imprisonment does not exceed ninety days; but in all such cases if the fine exceeds one hundred dollars, or the term of imprisonment for misdemeanor exceeds ninety days, the defendants (or any of them if there be more than one) may take the case, by appeal, before the minister of the United States, if allowed jurisdiction either upon errors of law or matters of fact, under such rules as may be prescribed by the minister for the prosecution of appeals in such cases.

Ibid. § 9.

When subject to appeal.

12. Whenever, in any case, the consul shall be of opinion that, by reason of the legal

Ibid. § 10.

22 June 1860.

When assessors  
to be called to  
the assistance of  
consuls.

When decision to  
be referred to the  
minister.

Ibid. § 11.

Civil jurisdiction  
under treaties.

Ibid. § 12.

Evidence to be in  
writing, &c.

Ibid. § 13.

Appellate juris-  
diction of minis-  
ters.

Ibid. § 14.

Punishments.

Ibid. § 15.

Capital offences.

Ibid. § 16.

Executions in  
capital cases.

Reprieves.

questions which may arise therein, assistance will be useful to him, or whenever he shall be of opinion that a severer punishment than those above specified will be required, he shall, in either case, summon one or more citizens of the United States, not exceeding four in number, taken by lot from a list of individuals which shall have been submitted previously to the minister for his approval, but in capital cases not less than four, who shall be persons of good repute, and competent to the duty, to sit with him in the trial, and who, after so sitting upon the trial, shall each enter upon the record his judgment and opinion, and sign the same. The consul shall, however, give judgment in the case; but if his decision is opposed by the opinion of one or more of his associates, the case, without further proceedings, together with the evidence and opinions, shall be referred to the minister for his final adjudication, either by entering up judgment therein, or remitting the same to the consul with instructions how to proceed therewith; but in all such cases, except capital offences, if the consul and his associates concur in opinion, the decision shall be final, except as is provided in section nine of this act.

13. The consuls aforesaid, and each of them at the port for which he is appointed, shall have jurisdiction as is herein provided in all civil cases arising under such treaties respectively, wherein the damage demanded does not exceed the sum of five hundred dollars; and if he sees fit to decide the same without aid, his decision thereon shall be final; but if, in his judgment, any case involves legal perplexities, and assistance will be useful, or if the damage demanded exceeds five hundred dollars, in either such case it shall be his duty to summon to his aid, from a list of individuals which shall have been nominated for the purposes of this act to the minister and received his approval, not less than two, nor more than three, citizens of the United States, if such are residing at the port, of good repute and competent to the duty, who shall with him hear any such case; and if the consul and his associates concur in opinion, the judgment shall be final; but if the associates, or any of them, differ from the consul, the opinions of all shall be noted on the record, and each shall subscribe his name to his assent to or dissent from the consul, with such reasons therefor as he thinks proper to assign, and either party may thereupon appeal, under such regulations as may exist, to the minister; but if no appeal is lawfully claimed, the decision of the consul shall be final and conclusive.

14. In all cases, criminal and civil, the evidence shall be taken down in writing in open court, under such regulations as may be made for that purpose; and all objections to the competency or character of testimony shall be noted, with the ruling in all such cases, and the evidence shall be part of the case.

15. The minister of the United States in the country to which he is appointed shall, in addition to his power to make regulations and decrees as herein provided, be fully authorized to hear and decide all cases, criminal and civil, which may come before him by appeal, under the provisions of this act, and to issue all processes necessary to execute the power conferred upon him; and he is hereby fully empowered to decide finally any case, upon the evidence which comes up with it, or to hear the parties further if he thinks justice will be promoted thereby; and he may also prescribe the rules upon which new trials may be granted, either by the consuls or by himself, if asked for upon justifiable grounds.

16. In all cases, except as is herein otherwise provided, the punishment of crime provided for by this act shall be by fine or imprisonment, or both, at the discretion of the functionary who decides the case, but subject to the regulations herein contained, and such as may hereafter be made. It shall, however, be the duty of each and every functionary, to allot punishment according to the magnitude and aggravation of the offence; and all who refuse or neglect to comply with the sentence passed upon them shall stand committed until they do comply, or are discharged by order of the consul, with the consent of the minister in the country.

17. Murder and insurrection, or rebellion against the government of either of the said countries, with intent to subvert the same, shall be capital offences, punishable with death; but no person shall be convicted of either of said crimes unless the consul and his associates in the trial all concur in opinion, and the minister also approves of the conviction; but it shall always be lawful to convict one put upon trial for either of these crimes, of a lesser offence of a similar character, if the evidence justifies it; and when so convicted, to punish, as for other offences, by fine or imprisonment, or both.

18. Whenever any one shall be convicted of either of the crimes punishable with death as aforesaid, in either of the said countries, it shall be the duty of the minister to issue his warrant for the execution of such convict, appointing the time, place and manner; but if the said minister shall be satisfied that the ends of public justice demand it, he may from time to time postpone such execution; and if he finds mitigatory circum-

stances which may authorize it, may submit the case to the president of the United States for pardon. 22 June 1560.

19. It shall be the duty of the minister in each of the said countries to establish a tariff of fees for judicial services, which shall be paid by such parties and to such persons as said minister shall direct; and the proceeds shall, as far as is necessary, be applied to defray the expenses incident to the execution of this act; and regular accounts, both of receipts and expenditures, shall be kept by the said minister and consuls, and transmitted annually to the secretary of state. *Ibid.* § 17.  
Fees.  
How appropriated.

20. In all criminal cases which are not of a heinous character, it shall be lawful for the parties aggrieved or concerned therein, with the assent of the minister in the country, or consul, to adjust and settle the same among themselves, upon pecuniary or other considerations. *Ibid.* § 18.  
Settlement of criminal cases.

21. It shall be the duty also of the said ministers and the consuls to encourage the settlement of controversies of a civil character, by mutual agreement, or to submit them to the decision of referees agreed upon by the parties, a majority of whom shall have power to decide the matter. And it shall be the duty of the minister in each country to prepare a form of submission for such cases, to be signed by the parties and acknowledged before the consul: and when parties have so agreed to refer, the referees may, after suitable notice of the time and place of meeting for the trial, proceed *ex parte*, in case either party refuses or neglects to appear; and, after hearing any case, may deliver their award, sealed, to the consul, who, in court, shall open the same; and if he accepts it, he shall indorse the fact, and judgment shall be rendered thereon, and execution issue in compliance with the terms thereof: *Provided, however,* That the parties may always settle the same before return thereof is made to the consul. *Ibid.* § 19.  
Settlement of civil controversies.  
References.

22. The ministers aforesaid and consuls shall be fully authorized to call upon the local authorities to sustain and support them in the execution of the powers confided to them by said treaty, and on their part to do and perform whatever is necessary to carry the provisions of said treaties into full effect, so far as they are to be executed in the said countries respectively. *Ibid.* § 20.  
Power of the local authorities may be invoked.

23. The provisions of this act, so far as the same relate to crimes and offences committed by citizens of the United States, shall extend to Turkey, under the treaty with the Sublime Porte of May 7th 1830, and shall be executed in the Ottoman dominions in conformity with the provisions of said treaty, and of this act, by the minister of the United States and the consuls of the United States [appointed] to reside therein, who are hereby *ex officio* vested with the powers herein conferred upon the minister and consuls in China, for the purposes above expressed, so far as regards the punishment of crime, and also for the exercise of jurisdiction in civil cases wherein the same is permitted by the laws of Turkey, or its usages in its intercourse with the Franks or other foreign Christian nations. *Ibid.* § 21.  
Jurisdiction in Turkey.

24. The word minister, when used in this act, shall be understood to mean the person invested with and exercising the principal diplomatic functions in each of the countries mentioned in the first section of this act. The word consul shall be understood to mean any person invested by the United States with, and exercising the functions of consul-general, vice consul-general, consul or vice consul in any of the countries herein named. And if at any time there be no minister of the United States in either of the countries hereinbefore mentioned, the judicial duties which are imposed by this act upon the minister, shall devolve upon the consul-general or consul residing at the capital of the country, who is hereby authorized and required to discharge the same. *Ibid.* § 22.  
Who to be deemed ministers and consuls.

25. All such officers shall be responsible for their conduct to the United States, and to the laws thereof, not only as diplomatic or consular functionaries respectively, but as judicial officers, when they perform judicial duties, and shall be held liable for all negligences and misconduct as public officers. *Ibid.* § 23.  
Responsibility of officers.

26. Capital cases for murder or insurrection against the government of either of the countries hereinbefore mentioned, by citizens of the United States, or for offences against the public peace amounting to felony under the laws of the United States, may be tried before the minister of the United States in the country where the offence is committed if allowed jurisdiction; and it shall be competent for each of the said ministers to issue all manner of writs, to prevent the citizens of the United States from enlisting in the military or naval service of either of the said countries, to make war upon any foreign power with whom the United States are at peace, or in the service of one portion of the people against any other portion of the same people; and he may carry out this power by a resort to such force as may at the time be within his reach, belonging to the United States. *Ibid.* § 24.  
Trial of capital cases.  
Enforcement of neutrality laws.

27. That the president be and he is hereby authorized to appoint marshals for such of the consular courts in the said countries as he may think proper, not to exceed *Ibid.* § 25.

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Appointment of  
marshals.  
Compensation.  
Duties.

Bonds.

When original  
bond to be pro-  
duced on plea of  
*non est factum*.

Process against  
marshals.

Ibid. § 26.

Expenses of pri-  
sons and keepers  
to be allowed.

Ibid. § 27.

When ministers  
to have original  
jurisdiction.

Ibid. § 28.

Jurisdiction in  
Persia.

Ibid. § 29.

In Tripoli, Tunis,  
Morocco and  
Muscat.

seven in number, namely, one in Japan, four in China, one in Siam and one in Turkey, who shall each receive an annual salary of one thousand dollars per annum, in addition to the fees allowed by the regulations of the said ministers, respectively, in the said countries; and it shall be the duty of the said marshals, respectively, to execute all process issued by the minister of the United States in the said countries, respectively, or by the consul at the port at which they reside, and to make due return of the same to the officer by whom the same was issued, and to conform, in all respects, to the regulations prescribed by the said ministers, respectively, in regard to their duties. And the said marshals shall give bond for the faithful performance of the duties of the office before entering upon the duties of the same, which bond shall be in a penal sum not to exceed ten thousand dollars, with two sureties to be approved by the secretary of state of the United States; and the said bond shall be transmitted to the secretary of the treasury, and a certified copy thereof be lodged in the office of the minister. And in case any person aggrieved by the misconduct of any of the said marshals should desire to bring suit upon any of the said bonds, it shall be the duty of the secretary of the treasury, or the minister having custody of a copy of the same, to furnish the person so applying with a certified copy thereof, upon which copy so furnished and certified suit may be brought and prosecuted with the same effect as could be done upon the original: *Provided*, That upon a plea of *non est factum* verified upon oath, or any other good cause shown, the court or the consul or minister trying the cause may require the original to be produced; and when so required, it shall be the duty of the secretary of the treasury to forward the original bond to the court or consul or minister requiring the same: *And provided further*, That before a copy of any such bond shall be furnished for suit, it shall be the duty of the secretary of the treasury, or the minister to whom the application is made, to require *prima facie* proof, to be judged of by the secretary of the treasury or the minister having charge of the copy, that there is probable cause of action against the marshal making the bond: *And provided further*, That all rules, orders, writs and processes of every kind which are intended to operate or be enforced against any of the said marshals, in any of the countries named in this act, shall be directed to and executed by such person as may be appointed for that purpose by the minister or consul issuing the same.

28. That the president be and is hereby authorized to allow, in the adjustment of the accounts of each of the said ministers or consuls, the actual expenses of the rent of suitable buildings or parts of buildings to be used as prisons for American convicts in the said countries, not to exceed in any case the rate of six hundred dollars a year; and also the wages of the keepers of the same, and for the care of offenders, not to exceed, in any case, the sum of eight hundred dollars per annum, and provided that no more than one prison shall be hired in Japan, four in China, one in Turkey and one in Siam, at such port or ports as the minister, with the sanction of the president, may designate.

29. The jurisdiction of the respective ministers in the countries hereinbefore named, where the same is allowed by treaty, in all matters of civil redress or of crimes, except in the cases mentioned in the 24th section, shall be appellate only, and to be exercised wherever in the said countries they may be, respectively, except also in cases where a consular officer shall happen to be interested either as party or witness, in which case original jurisdiction is vested in the said ministers respectively.

30. That the provisions of this act be and the same are hereby extended to Persia, in respect to all suits and disputes which may arise between citizens of the United States therein; and the minister and consuls who may be appointed to reside in Persia are hereby invested, in relation to the said suits and disputes, with such powers as are by this act conferred upon the minister and consuls in China. And all suits and disputes arising in Persia between Persian subjects and citizens of the United States shall be carried before the Persian tribunal, to which such matters are usually referred, at the place where a consul or agent of the United States may reside, and shall be discussed and decided according to equity, in the presence of an employé of the consul or agent of the United States; and it shall be the duty of the consular officer to attend the trial in person, and see that justice is administered. And all suits and disputes occurring in Persia between the citizens of the United States and the subjects of other foreign powers, shall be tried and adjudicated by the intermediation of their respective ministers or consuls, in accordance with such regulations as shall be mutually agreed upon by the minister of the United States for the time being, and the ministers of such foreign powers respectively, which regulations shall, from time to time, be submitted to the secretary of state of the United States.

31. The provisions of this act, so far as the same are in conformity with the stipulations in the existing treaties between the United States and Tripoli, Tunis, Morocco and Muscat respectively, shall extend to those countries, and shall be executed in conformity

with the provisions of the said treaties, and of the provisions of this act, by the consuls appointed by the United States to reside therein, who are hereby *ex officio* invested with the powers herein delegated to the ministers and consuls of the United States appointed to reside in the countries named in the first section of this act, so far as the same can be exercised under the provisions of treaties between the United States and the several countries mentioned in this section, and in accordance with the usages of the said countries in their intercourse with the Franks or other foreign Christian nations.

32. That the consuls and commercial agents of the United States at islands or in countries not inhabited by any civilized people, or recognised by any treaty with the United States, be and the same are hereby authorized to try, hear and determine all cases in regard to civil rights, whether of person or property, where the real debt and damages do not exceed the sum of one thousand dollars, exclusive of costs, and upon full hearing of the allegations and evidence of both parties to give judgment according to the laws of the United States, and according to the equity and right of the matter, in the same manner as justices of the peace are now authorized and empowered where the United States have exclusive jurisdiction. And the said consuls and commercial agents respectively are hereby invested with the powers conferred by the provisions of the seventh and eighth sections of this act for trial of offences or misdemeanors.

33. All marriages in the presence of any consular officer in a foreign country, between persons who would be authorized to marry if residing in the District of Columbia, shall have the same force and effect, and shall be valid to all intents and purposes, as if the said marriage had been solemnized within the United States. And in all cases of marriage before any consular officer, the said consular officer shall give to each of the parties a certificate of such marriage, and shall also send a certificate thereof to the department of state, there to be kept; which certificate shall specify the names of the parties, their ages, places of birth and residence.

### III. MISCELLANEOUS PROVISIONS.

34. The salary provided by the third section of "An act to regulate the diplomatic and consular systems of the United States," approved August 18th 1856, as compensation for the consul-general of British North America, as by schedule B, shall be in full of all compensation allowed to that officer. And all fees received by any vice consul or commercial agent in British North America, exceeding the amount allowed by the president as compensation for his services, and all fees received by said consul-general, shall be accounted for by such officers respectively to the treasury of the United States.

35. The fee for certifying invoices, and for certifying the place of growth or production of goods made duty free by the reciprocity treaty, to be charged by the consul-general for the British North American provinces, and subordinate consular officers, or agents in said provinces, shall be fifty cents for each certificate, and no more. And no such certificate of the growth or production shall be required for goods not exceeding in value the sum of two hundred dollars.

36. American vessels running regularly by weekly or monthly trips, or otherwise, to or between foreign ports, shall not be required to pay fees to consuls for more than four trips in a year, anything in the law or regulations respecting consular fees to the contrary notwithstanding.

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*Ibid.* § 30.

In other uncivilized countries.

*Ibid.* § 29.

Marriages before consular officers regulated.

3 March 1859 § 2.  
11 Stat. 404.

Salary of consul-general of British North America.

*Ibid.* § 3.

Fee for certifying invoices.

5 Aug. 1861 § 1.  
12 Stat. 315.

Consular fees in certain cases.

## Contempts.

1. Testimony of witness not to be used in criminal prosecution. Witness not to be excused because his testimony may disgrace him. Privilege not to extend to official papers produced. him.

1. That the provisions of the second section of the act entitled "An act more effectually to enforce the attendance of witnesses on the summons of either house of congress, and to compel them to discover testimony," approved January 24th 1857, (a) be amended, altered and repealed, so as to read as follows: That the testimony of a witness examined and testifying before either house of congress or any committee of either house of congress, shall not be used as evidence in any criminal proceeding against such witness in any court of justice: *Provided, however,* That no official paper or record produced by such witness on such examination, shall be held or taken to be included within the privilege of said evidence so to protect such witness from any criminal proceeding as aforesaid; and no witness shall hereafter be allowed to refuse to testify to any fact, or to produce any paper touching which he shall be examined by either house of congress or any committee of either house, for the reason that his testimony touching such fact, or the production of such paper, may tend to disgrace him or otherwise render him infamous: *Provided,* That nothing in this act shall be construed to exempt any witness from prosecution and punishment for perjury committed by him in testifying as aforesaid.

(a) Ante 190, pl. 4.

24 Jan. 1862 § 1.  
12 Stat. 333.

Testimony of witness not to be used in criminal prosecution against him.

Privilege not to extend to official papers produced.

Witness not to be excused because his testimony may disgrace him.



## Contracts.

1. Certain contracts to be reported to congress. Only to be made in cases of emergency.
2. How purchases and contracts to be made.
3. Copies of contracts to be filed in the returns office. Also, proposals and advertisements.
4. Affidavit to be made to contract. Punishment of false swearing.
5. Penalty for not making returns.
6. Returns office established. Clerk. His duties.
7. Letters of instruction to be issued.
8. Contracts to be reported to congress.
9. Not to be transferrable.
10. Supplies to be marked with contractor's name.
11. Fraudulent army and navy contractors to be triable by court martial.
12. Weekly list of proposals to be published.
13. Contracts for sale of coin to be in writing. Stamp duty
14. Limitation of loans on coin.
15. Contracts in violation of the act to be void.

4 May 1858 § 4.  
11 Stat. 269.

Certain contracts  
to be reported to  
congress.

1. Whenever hereafter contracts shall be made by the secretary of war, or the secretary of the navy, by virtue of the sixth section of the act approved the first of May 1820, (a) entitled "An act in addition to the several acts for the establishment and regulation of the treasury, war and navy departments," he shall, if congress be in session at the time, promptly report to both houses thereof the reasons for making such contract, stating fully all the facts and circumstances which, in his judgment, rendered such contract necessary; if congress be not in session at the time of making such contract, he shall, at the commencement of their next session, make such report to both houses; and no such contracts shall be made hereafter, except in cases of pressing exigency.

2 March 1861 § 10.  
12 Stat. 220.

How purchases  
and contracts to  
be made.

2. All purchases and contracts for supplies or services in any of the departments of the government except for personal services, when the public exigencies do not require the immediate delivery of the article or articles or performance of the service, shall be made by advertising a sufficient time previously for proposals respecting the same. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase, or contract, at the places, and in the manner in which such articles are usually bought and sold, or such services engaged between individuals. No contract or purchase shall hereafter be made unless the same be authorized by law, or be under an appropriation adequate to its fulfilment, except in the war and navy departments for clothing, subsistence, forage, fuel, quarters or transportation, which however shall not exceed the necessities of the current year. And the third section of the act entitled "An act making appropriations for the legislative, executive and judicial expenses of the government for the year ending the 30th of June 1861," (b) shall be and the same is hereby repealed.

2 June 1862 § 1.  
12 Stat. 411.

Copies of con-  
tracts to be filed  
in the returns  
office.

3. It shall be the duty of the secretary of war, of the secretary of the navy, and of the secretary of the interior, immediately after the passage of this act, to cause and require every contract made by them severally on behalf of the government or by their officers under them appointed to make such contracts, to be reduced to writing and signed by the contracting parties with their names at the end thereof, a copy of which shall be filed by the officer making and signing the said contract in the "Returns Office" of the department of the interior (hereinafter established for that purpose), as soon after the contract is made as possible, and within thirty days, together with all bids, offers and proposals to him made by persons to obtain the same, as also a copy of any advertisement he may have published inviting bids, offers or proposals for the same; all the said copies and papers in relation to each contract to be attached together by a ribbon and seal, and numbered in regular order numerically, according to the number of papers composing the whole return.

Ibid. § 2.  
Affidavit to be  
made to contract.

4. It shall be the further duty of the said officer, before making his return, according to the first section of this act, to affix to the same his affidavit in the following form, sworn to before some magistrate having authority to administer oaths: "*I do solemnly swear (or affirm) that the copy of contract hereto annexed is an exact copy of a contract made by me personally with ———; that I made the same fairly without any benefit or advantage to myself, or allowing any such benefit or advantage corruptly to the said ———, or any other person; and that the papers accompanying include all those relating to the said contract, as required by the statute in such case made and provided.*" And any officer convicted of falsely and corruptly swearing to such affidavit, shall be subject to all the pains and penalties now by law inflicted for wilful and corrupt perjury.

Punishment of  
false swearing.

Ibid. § 3.  
Penalty for not  
making returns.

5. Any officer making contracts as aforesaid, and failing or neglecting to make returns of the same, according to the provisions of this act, unless from unavoidable accident and not within his control, shall be deemed, in every case of such failure or neglect, to be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of

(a) Ante 101, pl. 8.

(b) 12 Stat. 103.

not less than one hundred dollars, nor more than five hundred dollars, and be imprisoned for not more than six months, at the discretion of the court trying the same.

6. It shall be the duty of the secretary of the interior, immediately after the passage of this act, to provide a fit and proper apartment in his department, to be called the "Returns Office," within which to file the returns required by this act to be filed, and to appoint a clerk to attend to the same, who shall be entitled to an annual salary of twelve hundred dollars, and whose duty it shall be to file all returns made to said office, so that the same may be of easy access, filing all returns made by the same officer in the same place, and numbering them as they are made in numerical order. He shall also provide and keep an index book, with the names of the contracting parties, and the number of each and every contract opposite to the said names; and he shall submit the said index book and returns to any person desiring to inspect the same; and he shall also furnish copies of said returns to any person paying for said copies to said clerk, at the rate of five cents for every one hundred words, to which said copies certificates shall be appended in every case by the clerk making the same, attesting their correctness, and that each copy so certified is a full and complete copy of said return; which return, so certified under the seal of the department, shall be evidence in all prosecutions under this act.

7. It shall be the duty of the secretary of war, of the secretary of the navy and of the secretary of the interior, immediately after the passage of this act, to furnish each and every officer severally appointed by them with authority to make contracts on behalf of the government, with a printed letter of instructions, setting forth the duties of such officer under this act, and also to furnish therewith forms, printed in blank, of contracts to be made, and the affidavit of returns required to be affixed thereto, so that all the instruments may be as nearly uniform as possible.

8. All contracts made for, or orders given for the purchase of, goods or supplies by any department of the government, shall be promptly reported to congress by the proper head of such department, if congress shall at the time be in session, and if not in session, said reports shall be made at the commencement of the next ensuing session.

9. No contract or order, or any interest therein, shall be transferred by the party or parties to whom such contract or order may be given, to any other party or parties; and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States are concerned: *Provided*, That all rights of action are hereby reserved to the United States for any breach of such contract by the contracting party or parties.

10. Every person who shall furnish supplies of any kind to the army or navy, shall be required to mark and distinguish the same with the name or names of the contractors so furnishing said supplies, in such manner as the secretary of war and the secretary of the navy may respectively direct; and no supplies of any kind shall be received unless so marked and distinguished.

11. Whenever any contractor for subsistence, clothing, arms, ammunition, munitions of war, and for every description of supplies for the army or navy of the United States, shall be found guilty by a court martial of fraud or wilful neglect of duty, he shall be punished by fine, imprisonment or such other punishment as the court martial shall adjudge; and any person who shall contract to furnish supplies of any kind or description for the army or navy, he shall be deemed and taken as a part of the land or naval forces of the United States, for which he shall contract to furnish said supplies, and be subject to the rules and regulations for the government of the land and naval forces of the United States.

12. It shall be the duty of the several executive departments of the government to publish in one of the daily newspapers of the city of Washington, on Tuesday of each week, a list of all contracts which shall have been solicited or proposed to each, respectively, during the week next preceeding; which list shall state briefly the subject-matter of each contract so solicited or proposed to be made, its terms, the name of the proposed contractor and of all persons known to be interested therein, directly or indirectly, and of all persons who solicit, request or recommend the making of any such contract: *Provided*, That the foregoing provision shall not be applicable to bids made in pursuance of advertisements for contracts or purchases made under existing laws, but shall apply to all proposed modifications of existing contracts.

13. All contracts for the purchase or sale of gold or silver coin, or bullion, and all contracts for the loan of money or currency secured by pledge or deposit, or other disposition of gold or silver coin of the United States, if to be performed after a period exceeding three days, shall be in writing or printed, and signed by the parties or their agents or attorneys, and shall have one or more adhesive stamps, as provided in the act to which this is an amendment, equal in amount to one-half of one per centum and

2 June 1862.

Ibid. § 4.

Returns office established.

Clerk.

His duties.

Ibid. § 5.

Letters of instruction to be issued.

17 July 1862 § 13  
12 Stat. 506.

Contracts to be reported to congress.

Ibid. § 14.

Not to be transferable.

Ibid. § 15.

Supplies to be marked with contractor's name.

Ibid. § 16.

Fraudulent army and navy contractors to be triable by court martial.

See 1186

12 July 1862 § 1.  
12 Stat. 624.

Weekly list of proposals to be published.

3 March 1863 § 4.  
12 Stat. 719.

Contracts for sale of coin to be in writing.

Stamp duty.

3 March 1863.

Limitation of  
loans in coin.

Ibid. § 5.

Contracts in viola-  
tion of the act  
to be void.

interest at the rate of six per centum per annum on the amount so loaned, pledged or deposited. And if any such loan, pledge or deposit, made for a period not exceeding three days, shall be renewed or in any way extended for any time whatever, said loan, pledge or deposit shall be subject to the duty imposed on loans exceeding three days. And no loan of currency or money on the security of gold or silver coin of the United States as aforesaid, or of any certificate or other evidence of deposit payable in gold or silver coin, shall be made exceeding in amount the par value of the coin pledged or deposited as security; and any such loan so made, or attempted to be made, shall be utterly void: *Provided*, That if gold or silver coin be loaned at its par value, it shall be subject only to the duty imposed on other loans: *Provided, however*, That nothing herein contained shall apply to any transaction by or with the government of the United States.

14. All contracts, loans or sales of gold and silver coin and bullion, not made in accordance with this act, shall be wholly and absolutely void; and in addition to the penalties provided in the act to which this is an amendment, any party to said contract may, at any time within one year from the date of the contract, bring suit before any court of competent jurisdiction to recover back, for his own use and benefit, the money paid on any contract not made in accordance with this act.

## Coolie Trade.

1. American citizens and residents not to engage in the coolie trade. Vessels employed in such trade to be forfeited.
2. Penalty for fitting out vessels for the coolie trade.
3. Punishment for shipping coolies.
4. Not to interfere with voluntary emigration. Consular cer-

tificate.

5. Acts relating to passenger vessels revived as to the carrying of passengers between two foreign ports.

6. Vessels of war to examine suspected vessels, and to send them into port for adjudication.

19 Feb. 1862 § 1.  
12 Stat. 840.American citi-  
zens and resi-  
dents not to en-  
gage in the coolie  
trade.Vessels employed  
in such trade to  
be forfeited.

1. No citizen or citizens of the United States, or foreigner coming into or residing within the same, shall for himself or for any other person whatsoever, either as master, factor, owner or otherwise, build, equip, load or otherwise prepare any ship or vessel, or any steamship or steam-vessel registered, enrolled or licensed in the United States, or any port within the same, for the purpose of procuring from China, or from any port or place therein, or from any other port or place, the inhabitants or subjects of China, known as "coolies," to be transported to any foreign country, port or place whatever, to be disposed of, or sold, or transferred for any term of years, or for any time whatever, as servants or apprentices, or to be held to service or labor. And if any ship or vessel, steamship or steam-vessel, belonging in whole or in part to citizens of the United States, and registered, enrolled or otherwise licensed as aforesaid, shall be employed for the said purposes, or in the "coolie trade," so called, or shall be caused to procure or carry from China or elsewhere, as aforesaid, any subjects of the government of China, for the purpose of transporting or disposing of them as aforesaid, every such ship or vessel, steamship or steam-vessel, her tackle, apparel, furniture and other appurtenances shall be forfeited to the United States, and shall be liable to be seized, prosecuted and condemned in any of the circuit courts or district courts of the United States for the district where the said ship or vessel, steamship or steam-vessel may be found, seized or carried.

Ibid. § 2.

Penalty for fit-  
ting out vessels  
for the coolie  
trade.

2. Every person who shall so build, fit out, equip, load or otherwise prepare, or who shall send to sea or navigate, as owner, master, factor, agent or otherwise, any ship or vessel, steamship or steam-vessel, belonging in whole or in part to citizens of the United States, or registered, enrolled or licensed within the same, or at any port thereof, knowing or intending that the same shall be employed in that trade or business aforesaid, contrary to the true intent and meaning of this act, or in anywise aiding or abetting therein, shall be severally liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars and be imprisoned not exceeding one year.

Ibid. § 3.

Punishment for  
shipping coolies.

3. If any citizen or citizens of the United States shall, contrary to the true intent and meaning of this act, take on board of any vessel, or receive or transport any such persons as are above described in this act, for the purpose of disposing of them as aforesaid, he or they shall be liable to be indicted therefor, and, on conviction thereof, shall be liable to a fine not exceeding two thousand dollars and be imprisoned not exceeding one year.

Ibid. § 4.

Not to interfere  
with voluntary  
emigration.

4. Nothing in this act hereinbefore contained shall be deemed or construed to apply to or affect any free and voluntary emigration of any Chinese subject, or to any vessel carrying such person as passenger on board the same: *Provided, however*, That a permit or certificate shall be prepared and signed by the consul or consular agent of the United

States residing at the port from which such vessel may take her departure, containing the name of such person, and setting forth the fact of his voluntary emigration from such port or place, which certificate shall be given to the master of such vessel; but the same shall not be given until such consul or consular agent shall be first personally satisfied by evidence produced of the truth of the facts therein contained.

19 Feb. 1862.

Consular certificate.

Ibid. § 5.

Acts relating to passenger vessels revived as to the carrying of passengers between two foreign ports.

5. All the provisions of the act of congress approved February 22d 1847, (a) entitled "An act to regulate the carriage of passengers in merchant vessels," and all the provisions of the act of congress approved March 3d 1849, (b) entitled "An act to extend the provisions of all laws now in force relating to the carriage of passengers in merchant vessels and the regulation thereof," shall be extended and shall apply to all vessels owned in whole or in part by citizens of the United States, and registered, enrolled or licensed within the United States, propelled by wind or by steam, and to all masters thereof, carrying passengers or intending to carry passengers from any foreign port or place without the United States to any other foreign port or place without the United States; and all penalties and forfeitures provided for in said act shall apply to vessels and masters last aforesaid.

Ibid. § 6.

Vessels of war to examine suspected vessels.

6. The president of the United States shall be and he is hereby authorized and empowered, in such way and at such time as he shall judge proper, to the end that the provisions of this act may be enforced, according to the true intent and meaning thereof, to direct and order the vessels of the United States, and the masters and commanders thereof, to examine all vessels navigated or owned in whole or in part by citizens of the United States, and registered, enrolled or licensed under the laws of the United States, wherever they may be, whenever, in the judgment of such master or commanding officer thereof, reasonable cause shall exist to believe that such vessel has on board, in violation of the provisions of this act, any subjects of China known as "coolies," for the purpose of transportation; and upon sufficient proof that such vessel is employed in violation of the provisions of this act, to cause such vessel to be carried, with her officers and crew, into any port or district within the United States, and delivered to the marshal of such district, to be held and disposed of according to the provisions of this act.

And to send them into port for adjudication.

(a) 9 Stat. 127.

(b) 9 Stat. 390. See 10 Stat. 720-1.

## Copyright.

1. Act 10 August 1846 § 10 repealed.

2. Duties in relation to copyright transferred from department

of state to department of the interior. Copies to be there deposited.

1. The tenth section of an act entitled "An act to establish the Smithsonian Institution for the increase and diffusion of knowledge among men," approved August 10th 1846, (a) is hereby repealed.

5 Feb. 1869 § 6.  
11 Stat. 380.

2. All books, maps, charts and other publications of every nature whatever heretofore deposited in the department of state, according to the laws regulating copyrights, together with all the records of the department of state, in regard to the same, shall be removed to, and be under the control of the department of the interior, which is hereby charged with all the duties connected with the same, and with all matters pertaining to copyright, in the same manner and to the same extent that the department of state is now charged with the same; and hereafter all such publications of every nature whatever shall, under present laws and regulations, be left with and kept by him.

Ibid. § 8.

Duties in relation to copyright transferred from department of state to department of the interior. Copies to be there deposited.

(a) Ante 194, pl. 4.

To constitute a person an author, under the copyright act, he must, by his own intellectual labor applied to the materials of his composition, produce an arrangement or compilation new in itself. *Atwill v. Ferrett*, 2 Blatch. 40.

An action on the case is the proper remedy to recover damages for a violation of copyright. *Ibid*.

It is essential to the validity of a copyright, that a copy of the title-page be deposited in the clerk's office, before the sale of any copies of the book. *Baker v. Taylor*, 2 Blatch. 82.

A mistake, in the printed notice, of the date of entry, will invalidate the copyright. *Ibid*.

The penalty imposed by § 3 of the act 3 February 1831 (186, pl. 10), is not incurred by printing and publishing so much of a book as to amount to an infringement of its copyright. The word "copy," in that section, means a transcript of the entire work. *Rogers v. Jewett*, 22 Law Rep. 330.

To entitle a party to the protection of the act of 18 August 1856 (195, pl. 14), there must be a valid copyright in the particular dramatic composition, which cannot be obtained by the assignee of a non-resident alien author. *Keene v. Wheatley*, 9 Am. L. R. 34.

The representation of an unpublished dramatic composition

may be restrained, except so far as the proprietor's own performance of it may have enabled others to reproduce it from memory. A representation from a manuscript copy surreptitiously obtained is illegal. *Ibid*. But see *Keene v. Kimball*, 23 Law Rep. 669.

The acting of a drama in a public theatre, is not such a publication as will prevent a copyright being subsequently taken out. *Roberts v. Myers*, 17 Leg. Int. 405; 23 Law Rep. 396. But see *Keene v. Kimball*, *Ibid*, 969.

The record is *prima facie* evidence that a printed copy of the title was duly deposited in the clerk's office. *Ibid*. The copy of the book required to be deposited with the clerk, need not be a printed one: a valid copyright may exist, without the book being printed. *Ibid*.

A partial interest in a copyright is the subject of an assignment; and such partial assignee may sue in equity for a violation of his rights. *Ibid*.

A person temporarily residing in the United States, though he has declared his intention of becoming a citizen, is not a resident within the meaning of the copyright act (193, pl. 1), so as to take or hold a copyright. *Carey v. Collier*, 56 Niles' Reg. 262.

The author or compiler of a musical composition, made up of,

different parts copied from older compositions, without material change, and put together into one tune, with only slight alterations or additions, is not entitled to a copyright therefor. *Reed v. Carusi*, 8 Law Rep. 411.

The publication of an official report under the direction of congress, and for the benefit of the public, is a dedication of it to the public, and any one may reprint it. *Heine v. Appletons*, Law's Dig. 214.

An artist attached to a government expedition, can acquire no copyright in drawings and sketches made in his official capacity. *Ibid.* 211.

Where a work consists of a number of volumes, the insertion of the record of the copyright, in the 'page next' following the

title-page of the first volume of the work, is a sufficient compliance with the statute. *Dwight v. Appletons*, 1 N. Y. Leg. Obs. 198.

The author may insert the same record in another edition, published in a different number of volumes, without impairing the copyright. The number of volumes in which it is stated the work will be published, make no part of the title, and may be rejected as surplusage. *Ibid.*

The deposit of the title-page before publication, and of a printed copy of the book within three months after publication, are indispensable to secure a valid copyright. *Struve v. Schroeder*, Law's Dig. 214.

## Costs.

The 20th section of the judiciary act of 1789 (106, pl. 1), does not apply to cases removed from a state court, under the act of 2 March 1833 (129, pl. 20); in such case, the plaintiff may recover

costs in the circuit court, if he would have been entitled to them in the state court. *Field v. Schnell*, 17 Leg. Int. 245. *Coggill v. Lawrence*, 2 Blatch. 304.

20 Jers. 404 G. 1. 46

## Court of Claims.

1. Additional judges to be appointed.
2. Jurisdiction enlarged.
3. Jurisdiction of counter-claims.
4. Sessions. Rules of practice. Commissioners. Bailiff.
- Salaries. Powers of judges. Seal.
5. Appeals to supreme court.
6. Solicitor and assistants.

7. Payment of claims. Interest.
8. Examination of claimant.
9. Exceptions from jurisdiction.
10. Limitation of suits.
11. Penalty for fraudulent practice.
12. Form of petition.
13. Payment not to be made before estimate for appropriation.

3 March 1863 § 1.  
12 Stat. 765.

Additional  
Judges.

*Ibid.* § 2.

Jurisdiction en-  
larged.

*Ibid.* § 3.

Jurisdiction of  
counter-claims.

*Ibid.* § 4.

Sessions.

Rules of practice.

Commissioners.

Bailiff.

Salaries.

Powers of judges.

Seal.

1. There shall be appointed by the president, by and with the advice and consent of the senate, two additional judges for the said court, to hold their offices during good behavior, who shall be qualified in the same manner, discharge the same duties and receive the same compensation as now provided in reference to the judges of said court; and from the whole number of said judges the president shall in like manner appoint a chief justice for said court.

2. All petitions and bills praying or providing for the satisfaction of private claims against the government, founded upon any law of congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the government of the United States, shall, unless otherwise ordered by resolution of the house in which the same are presented or introduced, be transmitted by the secretary of the senate or the clerk of the house of representatives, with all the accompanying documents, to the court aforesaid.

3. The said court, in addition to the jurisdiction now conferred by law, shall also have jurisdiction of all set-offs, counter-claims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever, on the part of the government against any person making claim against the government in said court; and upon the trial of any such cause it shall hear and determine such claim or demand both for and against the government and claimant; and if upon the whole case it finds that the claimant is indebted to the government, it shall render judgment to that effect, and such judgment shall be final, with the right of appeal, as in other cases herein provided for. Any transcript of such judgment, filed in the clerk's office of any district or circuit court of the United States, shall be entered upon the records of the same, and shall *ipso facto* become and be a judgment of such district or circuit court, and shall be enforced in like manner as other judgments therein.

4. The said court of claims shall hold one annual session, commencing on the first Monday in October in each year, and continuing so long as may be necessary for the prompt disposition of the business of the court. The said court may prescribe rules and regulations for practice therein, and it may punish for contempt, in the manner prescribed by common law. It may appoint commissioners, and may generally exercise such powers as are necessary to carry out the powers herein granted to it. The judges, solicitors and clerks of said court shall be admitted to the use of the congressional library, and also the law library, until a law library be provided for them. The said court may appoint a bailiff, who shall hold his office during four years, unless sooner removed by said court for cause, and who shall receive a salary of one thousand dollars, payable quarterly. The judges and clerks of said court may administer oaths and affirmations, take acknowledgments of instruments in writing, and give certificates of the same. Said court shall have a seal, with such device as it may order. Members of either house of congress shall not practise in said court of claims.

5. Either party may appeal to the supreme court of the United States from any final judgment or decree which may hereafter be rendered in any case by said court, wherein the amount in controversy exceeds three thousand dollars, under such regulations as the said supreme court may direct: *Provided*, That such appeal shall be taken within ninety days after the rendition of such judgment or decree: *And provided further*, That when the judgment or decree will affect a class of cases, or furnish a precedent for the future action of any executive department of the government in the adjustment of such class of cases, or a constitutional question, and such facts shall be certified to by the presiding justice of the court of claims, the supreme court shall entertain an appeal on behalf of the United States, without regard to the amount in controversy.

3 March 1863.

Appeals to supreme court.

6. The solicitor, assistant solicitor and deputy solicitor of said court shall hereafter be appointed by the president, by and with the advice and consent of the senate, and it shall be their duty faithfully and diligently to defend the United States in all matters and cases before said court of claims; and in all cases taken by appeal therefrom to the supreme court; and no other fee or compensation than the salary of said solicitor, and assistant and deputy solicitors, shall hereafter, in any case, be paid to either of them; and no fee or compensation for services in either the supreme court or court of claims shall hereafter be allowed or paid in any case by the United States.

Ibid. § 6.

Solicitor and assistants.

7. In all cases of final judgments by the said court, or on appeal by the said supreme court, where the same shall be affirmed in favor of the claimant, the sum due thereby shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the secretary of the treasury of a copy of said judgment, certified by the clerk of said court of claims, and signed by the chief justice, or, in his absence, by the presiding judge of said court. And in cases where the judgment appealed from is in favor of said claimant, or the same is affirmed by the said supreme court, interest thereon at the rate of five per centum shall be allowed from the date of its presentation to the secretary of the treasury for payment as aforesaid, but no interest shall be allowed subsequent to the affirmance, unless presented for payment to the secretary of the treasury as aforesaid: *Provided*, That no interest shall be allowed on any claim up to the time of the rendition of the judgment by said court of claims, unless upon a contract expressly stipulating for the payment of interest; and it shall be the duty of the secretary of the treasury, at the commencement of each congress, to include in his report a statement of all sums paid at the treasury on such judgments, together with the names of the parties in whose favor the same were allowed: *And it is further provided*, That such payments shall be a full discharge to the United States of all claim or demand touching any of the matters involved in the controversy: *And provided further*, That any final judgment rendered against the claimant on any claim prosecuted as aforesaid, shall for ever bar any further claim or demand against the United States arising out of the matters involved in the controversy.

Ibid. § 7.

Payment of claims.

Interest.

8. It shall be lawful for said court, at the instance of the solicitor for the United States, to make an order in any case pending in said court, directing that the claimant or claimants in such case, or any one or more of them, shall appear, upon reasonable notice, before any commissioner of said court, and be examined on oath or affirmation touching any or all matters pertaining to said claim. And the examination of such claimant or claimants shall be reduced to writing by the said commissioner, and be returned to and filed in said court, and may, at the discretion of the solicitor for the United States, be read and used as evidence on the trial of said cause. And if any claimant or claimants, after such order has been made, and due and reasonable notice thereof given to him or them, shall fail to appear or shall refuse to testify or answer fully as to all matters within his knowledge material to the issue, the said court may, in its discretion, order that the said cause shall not be brought forward for trial until the said claimant or claimants shall have fully complied with the order of said court in the premises.

Ibid. § 8.

Examination of claimant.

9. The jurisdiction of the said court shall not extend to or include any claim against the government, not pending in said court on the first day of December, Anno Domini 1862, growing out of or dependent on any treaty stipulation entered into with foreign nations or with the Indian tribes.

Ibid. § 9.

Exceptions from jurisdiction.

10. Every claim against the United States, cognisable by the court of claims, shall be for ever barred, unless the petition setting forth a statement of the claim be filed in the court, or transmitted to it under the provisions of this act, within six years after the claim first accrues: *Provided*, That claims which have accrued six years before the passage of this act shall not be barred, if the petition be filed in the court, or transmitted as aforesaid, within three years after the passage of this act: *And provided further*, That the claims of married women first accrued during marriage, of persons under the

Ibid. § 10.

Limitation of suits.

8 March 1863.

age of twenty-one years first accruing during minority, and of idiots, lunatics, insane persons, and persons beyond seas at the time the claim accrued, entitled to the claim, shall not be barred, if the petition be filed in the court, or transmitted, as aforesaid, within three years after the disability has ceased; but no other disability than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

Ibid. § 11.

Penalty for fraudulent practices.

11. Any person or persons who shall corruptly practise or attempt to practise any fraud against the United States in the proof, statement, establishment, or allowance of any claim, or any part of any claim against the United States, shall *ipso facto* forfeit the same to the government; and it shall be the duty of the court of claims, in such cases, to find specifically that such fraud was practised or attempted to be practised, and thereupon give judgment that such claim is forfeited to the government, and that the claimant be for ever barred from prosecuting the same. Appeals may be taken from the court of claims to the supreme court, in all such cases, on all questions of law, in the manner herein provided for appeals in other cases.

Ibid. § 12.

Form of petition.

12. Any petition filed under this act shall be verified by the affidavit of the claimant, his agent, or attorney, stating that no assignment or transfer of said claim, or any part thereof, or any interest therein, has been made, except as in said petition stated; that said claimant is justly entitled to the amount therein claimed from the United States, after allowing all just credits and offsets; and that he believes the facts as stated in said petition are true: *Provided, however*, That in order to authorize the said court to render a judgment in favor of any claimant, if a citizen of the United States, it shall be set forth in the petition that the claimant, and the original and every prior owner thereof, where the claim has been assigned, has at all times borne true allegiance to the government of the United States, and whether a citizen or not, that he has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said government; which allegations may be traversed by the government, and if on the trial such issue shall be decided against the claimant, his petition shall be dismissed.

Ibid. § 14.

Payment not to be made before estimate for appropriation.

13. No money shall be paid out of the treasury for any claim passed upon by the court of claims, till after an appropriation therefor shall be estimated for by the secretary of the treasury.

## Crimes.

### I. OFFENCES AGAINST GOVERNMENT.

1. Seditious conspiracy punished.
2. Punishment for enlisting persons to serve against the United States.
3. Punishment of those so enlisting.
4. Punishment of treason.
5. Aiding rebellion against the government.
6. Disqualifications.
7. Not to act retrospectively.
8. Correspondence with rebels by citizens residing abroad.
9. Jurisdiction of the district courts.

### II. OFFENCES AGAINST PROPERTY.

10. Forgery of bounty-land warrants. Uttering and publishing. Felony. Jurisdiction of the state courts preserved.
11. Forgery of treasury notes. Uttering and publishing. Felony.
12. Engraving, or having possession of plates, &c., with intent to forge treasury notes.
13. Extended to bonds, notes and fractional currency.

### III. OFFENCES UPON THE HIGH SEAS, ETC.

14. Seduction of female passengers. Subsequent marriage to bar indictment.

15. No person to visit places assigned to emigrants. Penalty. Punishment of master for permitting such visits.
16. Notice of these provisions to be posted. Penalty for neglect.
17. Appropriation of fines for seduction.
18. Testimony of female to be corroborated. Limitation.

### IV. OFFENCES AGAINST PUBLIC JUSTICE.

19. Voluntary escapes.

### V. OFFENCES AGAINST SOCIETY.

20. Punishment of bribery in reference to contracts and offices.
21. To embrace any agent of the government.
22. Circulating notes as currency for less than one dollar.

### VI. OFFENCES RELATING TO THE POST OFFICE.

23. Fraudulent use of defaced postage stamps, &c.

### VII. CRIMINAL PROCEDURE.

24. Jurors in capital cases.
25. President may grant partial pardons.
26. Sentence of fine to be a judgment-debt.

### I. OFFENCES AGAINST GOVERNMENT.

31 July 1861 § 1.  
12 Stat. 234.

Seditious conspiracy punished.

1. If two or more persons, within any state or territory of the United States, shall conspire together to overthrow, or to put down, or to destroy by force, the government of the United States; or to levy war against the United States; or to oppose by force the authority of the government of the United States; or by force to prevent, hinder or delay the execution of any law of the United States; or by force to seize, take or possess any property of the United States against the will or contrary to the authority of the United States; or by force, or intimidation, or threat to prevent any person from accepting or holding any office, or trust, or place of confidence under the United States; each and every person so offending shall be guilty of a high crime, and upon conviction thereof in any district or circuit court of the United States having jurisdiction thereof, or district or supreme court of any territory of the United States having jurisdiction thereof, shall be punished by a fine not less than five hundred dollars and not more

than five thousand dollars, or by imprisonment, with or without hard labor, as the court shall determine, for a period not less than six months nor greater than six years, or by both such fine and imprisonment.

2. If any person shall be guilty of the act of recruiting soldiers or sailors, in any state or territory of the United States, to engage in armed hostility against the United States, or who shall open a recruiting station for the enlistment of such persons, either as regulars or volunteers, to serve as aforesaid, shall be guilty of a high misdemeanor, and, upon conviction in any court of record having jurisdiction of the offence, shall be fined a sum not less than two hundred dollars nor more than one thousand dollars, and confined and imprisoned for a period not less than one year nor more than five years.

3. The person so enlisted, or engaged as regular or volunteer, shall be fined in a like manner a sum of one hundred dollars, and imprisoned not less than one nor more than three years.

4. Every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years and fined not less than ten thousand dollars, and all his slaves, if any, shall be declared and made free; said fine shall be levied and collected on any or all of the property, real and personal, excluding slaves, of which the said person so convicted was the owner at the time of committing the said crime, any sale or conveyance to the contrary notwithstanding.

5. If any person shall hereafter incite, set on foot, assist or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in or give aid and comfort to any such existing rebellion or insurrection, (a) and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding ten thousand dollars, and by the liberation of all his slaves, if any he have; or by both of said punishments, at the discretion of the court.

6. Every person guilty of either of the offences described in this act shall be for ever incapable and disqualified to hold any office under the United States.

7. This act shall not be construed in any way to affect or alter the prosecution, conviction or punishment of any person or persons guilty of treason against the United States before the passage of this act, unless such person is convicted under this act.

8. If any person, being a resident of the United States, or being a citizen thereof, and residing in any foreign country, shall, without the permission or authority of the government of the United States, and with the intent to defeat the measures of the said government, or to weaken in any way their efficacy, hold or commence, directly or indirectly, any correspondence or intercourse, written or verbal, with the present pretended rebel government, or with any officer or agent thereof, or with any other individual acting or sympathizing therewith; or if any such person above mentioned, not duly authorized, shall counsel or assist in any such correspondence or intercourse, with intent as aforesaid, he shall be deemed guilty of a high misdemeanor, and, on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding ten thousand dollars, and by imprisonment not less than six months nor exceeding five years.

9. Where the offence is committed in any foreign country, the district court of the United States for the district where the offender shall be first arrested shall have jurisdiction thereof.

## II. OFFENCES AGAINST PROPERTY.

10. If any person or persons shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or willingly aid or assist in falsely making, altering, forging or counterfeiting any military bounty-land warrant, or military bounty-land warrant certificate, issued or purporting to have been issued by the commissioner of pensions under any act of congress, or any certificate of location of any military bounty-land warrant, or any duplicate certificate of the location of any military bounty-land warrant, or military bounty-land warrant certificate, upon any of the lands of the United States, or any certificate of the purchase of any of the lands of the United States, or any duplicate certificate of the purchase of any of the lands of the United States, or any receipt for the purchase-money of any of the lands of the United States, or any duplicate receipt for the purchase-money of any lands of the United States, issued or purporting to have been issued by the register and receiver at any land office of the United States, or by either of them; or if any person or persons shall pass, utter or publish as true any false, forged or counterfeited military bounty-land warrant, military

31 July 1861.

6 August 1861 § 1  
12 Stat. 317.

Punishment for  
enlisting persons  
to serve against  
the United  
States.

Ibid. § 2.

Punishment of  
those so enlisting.

17 July 1862 § 1.  
12 Stat. 589.

Punishment of  
treason.

Ibid. § 2.

Aiding rebellion  
against the gov-  
ernment.

Ibid. § 3.

Ibid. § 4.

Not to act retro-  
spectively.

25 Feb. 1863 § 1.  
12 Stat. 693.

Correspondence  
with rebels by cit-  
izens residing  
abroad.

Ibid. § 2.

Jurisdiction of  
district courts.

5 Feb. 1859 § 1.  
11 Stat. 381.

Forgery of  
bounty-land war-  
rants, &c.

Uttering and  
publishing.

(a) It had been decided that the act 30 April 1790 (201, pl. 1) did not embrace the offence of giving aid and comfort to rebels in arms against the government. *United States v. Chenoweth*, 2 Leg. Obs. 251.



5 Feb. 1859.

Felony.

Jurisdiction of  
state courts pre-  
served.25 Feb. 1862 § 6.  
12 Stat. 247.Forgery of trea-  
sury notes.Uttering and  
publishing.

Felony.

Ibid. § 7.

Engraving or  
having posses-  
sion of plates, &c.  
with intent to  
forge treasury  
notes.

bounty-land warrant certificate, certificate of location, or duplicate certificate of location, certificate of purchase, duplicate certificate of purchase, receipt or duplicate receipt for the purchase-money of any of the lands of the United States, knowing the same to be false or forged; such person or persons so offending shall be deemed and adjudged guilty of felony, and, being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years nor more than ten years: *Provided nevertheless*, That nothing herein contained shall be construed to deprive the courts of the several states of jurisdiction, under the laws thereof, over offences declared punishable by this law.

11. If any person or persons shall falsely make, forge, counterfeit or alter, or cause or procure to be falsely made, forged, counterfeited or altered, or shall willingly aid or assist in falsely making, forging, counterfeiting or altering, any note, bond, coupon or other security issued under the authority of this act, or heretofore issued under acts to authorize the issue of treasury notes or bonds; or shall pass, utter, publish or sell, or attempt to pass, utter, publish or sell, or bring into the United States from any foreign place with intent to pass, utter, publish or sell, or shall have or keep in possession or conceal, with intent to utter, publish or sell, any such false, forged, counterfeited or altered note, bond, coupon or other security, with intent to defraud any body corporate or politic, or any other person or persons whatsoever, every person so offending shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement to hard labor not exceeding fifteen years, according to the aggravation of the offence.

12. If any person, having the custody of any plate or plates from which any notes, bonds, coupons or other securities mentioned in this act, or any part thereof, shall have been printed, or which shall have been prepared for the purpose of printing any such notes, bonds, coupons or other securities, or any part thereof, shall use such plate or plates, or knowingly permit the same to be used for the purpose of printing any notes, bonds, coupons or other securities, or any part thereof, except such as shall be printed for the use of the United States, by order of the proper officer thereof; or if any person shall engrave, or cause or procure to be engraved, or shall aid in engraving, any plate or plates in the likeness or similitude of any plate or plates designed for the printing of any such notes, bonds, coupons or other securities, or any part thereof, or shall vend or sell any such plate or plates, or shall bring into the United States from any foreign place any such plate or plates, with any other intent or for any purpose, in either case, than that such plate or plates shall be used for printing of such notes, bonds, coupons or other securities, or some part or parts thereof, for the use of the United States; or shall have in his custody or possession any metallic plate engraved after the similitude of any plate from which any such notes, bonds, coupons or other securities, or any part or parts thereof, shall have been printed, with intent to use such plate or plates, or cause or suffer the same to be used, in forging or counterfeiting any such notes, bonds, coupons or other securities, or any part or parts thereof, issued as aforesaid; or shall have in his custody or possession any blank note or notes, bond or bonds, coupon or coupons, or other security or securities, engraved and printed after the similitude of any notes, bonds, coupons or other securities, issued as aforesaid, with intent to sell or otherwise use the same; or if any person shall print, photograph or in any other manner execute or cause to be printed, photographed or in any manner executed, or shall aid in printing, photographing or executing any engraving, photograph or other print, or impression, in the likeness or similitude of any such notes, bonds, coupons or other securities, or any part or parts thereof, except for the use of the United States, and by order of the proper officer thereof, or shall vend or sell any such engraving, photograph, print or other impression, except to the United States, or shall bring into the United States from any foreign place any such engraving, photograph, print or other impression for the purpose of vending or selling the same, except by the direction of some proper officer of the United States; or shall have in his custody or possession any paper adapted to the making of such notes, bonds, coupons or other securities, and similar to the paper upon which any such notes, bonds, coupons or other securities shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes, bonds, coupons or other securities, issued as aforesaid; every such person so offending shall be deemed guilty of a felony, and shall, on conviction thereof, be punished by a fine not exceeding five thousand dollars, and by imprisonment and confinement to hard labor not exceeding fifteen years, according to the aggravation of the offence. (a)

3 Mar. 1863 § 8.  
12 Stat. 713.

13. In order to prevent and punish counterfeiting and fraudulent alterations of the bonds, notes and fractional currency authorized to be issued by this act, all the provi-

(a) See act 23 Dec. 1857, § 12-13. 11 Stat. 269.

sions of the sixth and seventh sections of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25th 1862, shall, so far as applicable, apply to the bonds, notes and fractional currency hereby authorized to be issued, in like manner as if the said sixth and seventh sections were hereby adopted as additional sections of this act. And the provisions and penalties of said sixth and seventh sections shall extend and apply to all persons who shall imitate, counterfeit, make or sell any paper such as that used or provided to be used, for the fractional notes prepared or to be prepared, in the treasury department building, and to all officials of the treasury department engaged in engraving and preparing the bonds, notes and fractional currency hereby authorized to be issued, and to all official and unofficial persons in any manner employed under the provisions of this act.

8 March 1863.

Extended to  
bonds, notes, and  
fractional cur-  
rency.

### III. OFFENCES UPON THE HIGH SEAS, ETC.

14. Every master or other officer, seaman or other person employed on board of any ship or vessel of the United States, who shall, during the voyage of such ship or vessel, under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduce and have illicit connection with any female passenger, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for a term not exceeding twelve months, or by a fine not exceeding one thousand dollars: *Provided*, That the subsequent intermarriage of the parties seducing and seduced may be pleaded in bar of a conviction.

24 March 1860 § 1.  
12 Stat. 3.

Seduction of fe-  
male passengers.

Subsequent mar-  
riage to bar in-  
dictment.

Ibid. § 2.

No person to visit  
places assigned to  
emigrants.

Penalty.

Punishment of  
master for per-  
mitting such  
visits.

15. Neither the officers, seamen or other persons employed on board of any ship or vessel bringing emigrant passengers to the United States, or any of them, shall visit or frequent any part of such ship or vessel assigned to emigrant passengers, except by the direction or permission of the master or commander of such ship or vessel first made or given for such purpose; and every officer, seaman or other person employed on board of such ship or vessel, who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall forfeit to the said ship or vessel his wages for the voyage of the said ship or vessel during which the said offence has been committed. Any master or commander who shall direct or permit any officer or seaman or other person employed on board of such ship or vessel, to visit or frequent any part of said ship or vessel assigned to emigrant passengers, except for the purpose of doing or performing some necessary act or duty as an officer, seaman or person employed on board of said ship or vessel, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of fifty dollars for each occasion on which he shall so direct or permit the provisions of this section to be violated, by any officer, seaman or other person employed on board of such ship or vessel.

Ibid. § 3.

Notice of these  
provisions to be  
posted.

Penalty for ne-  
glect.

16. It shall be the duty of the master or commander of every ship or vessel bringing emigrant passengers to the United States to post a written or printed notice in the English, French and German languages containing the provisions of the second section of this act, in a conspicuous place on the fore-castle, and in the several parts of the said ship or vessel assigned to emigrant passengers, and to keep the same so posted during the voyage; and upon neglect so to do, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding five hundred dollars.

Ibid. § 4.

Appropriation of  
fines for seduc-  
tion.

17. In case of the conviction of any person under the provisions of the first section of this act, and the imposition of a fine, the court sentencing the person so convicted may, in its discretion, by an order to be entered on its minutes, direct the amount of the fine when collected, to be paid for the use or benefit of the female seduced, or her child or children, if any.

Ibid. § 5.

Testimony of fe-  
male to be  
corroborated.

18. No conviction shall be had under the provisions of this act on the testimony of the female seduced uncorroborated by other evidence; nor unless the indictment shall be found within one year after the arrival of the ship or vessel at the port for which she was destined when the offence was committed.

### IV. OFFENCES AGAINST PUBLIC JUSTICE.

19. Whenever any marshal, deputy marshal or other ministerial officer shall have in his custody any prisoner by virtue of process issued under the laws of the United States by any court, judge or commissioner, and such marshal, deputy marshal or other ministerial officer shall voluntarily suffer such prisoner to escape, the officer so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof in any district or circuit court of the United States, shall be fined or imprisoned, or both, according to the discretion of the court in which such conviction shall take place, having respect to the nature of the crime with which the escaped prisoner shall have been charged, in a sum not exceeding two thousand dollars, and for a term not exceeding two years. This act

21 June 1860 § 1.  
12 Stat. 69.

Voluntary  
escapes.

21 June 1860.

shall be taken and construed to apply not only to cases in which the prisoner who escaped was charged, or found guilty of an offence against the laws of the United States, but also to cases in which a prisoner may be in custody charged with offences against any foreign government with whom the United States have treaties of extradition.

## V. OFFENCES AGAINST SOCIETY.

16 July 1862 § 1.  
12 Stat. 577.

Punishment of  
bribery in refer-  
ence to contracts  
and offices.

20. Any member of congress or any officer of the government of the United States who shall, directly or indirectly, take, receive or agree to receive, any money, property or other valuable consideration whatsoever, from any person or persons for procuring, or aiding to procure, any contract, office or place from the government of the United States or any department thereof, or from any officer of the United States, for any person or persons whatsoever, or for giving any such contract, office or place to any person whomsoever; and the person or persons who shall directly or indirectly offer or agree to give, or give or bestow any money, property or other valuable consideration whatsoever, for the procuring or aiding to procure any contract, office or place as aforesaid; and any member of congress who shall directly or indirectly take, receive or agree to receive any money, property or other valuable consideration whatsoever after his election as such member, for his attention to, services, action, vote or decision on any question, matter, cause or proceeding which may then be pending, or may by law or under the constitution of the United States be brought before him in his official capacity, or in his place of trust and profit as such member of congress; shall, for every such offence, be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction thereof, and on conviction thereof, shall pay a fine of not exceeding ten thousand dollars, and suffer imprisonment in the penitentiary not exceeding two years, at the discretion of the court trying the same; and any such contract or agreement as aforesaid may, at the option of the president of the United States, be absolutely null and void; and any member of congress or officer of the United States convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit or trust under the government of the United States.

25 Feb. 1863 § 1.  
12 Stat. 696.

21. The provisions of said act shall be so construed as to embrace any agent of the government of the United States.

17 July 1862 § 2.  
12 Stat. 592.

Circulating notes  
as currency for  
less than one dol-  
lar.

22. From and after the 1st day of August 1862, no private corporation, banking association, firm or individual shall make, issue, circulate or pay any note, check, memorandum, token or other obligation, for a less sum than one dollar, intended to circulate as money or to be received or used in lieu of lawful money of the United States; and every person so offending shall, on conviction thereof in any district or circuit court of the United States, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both, at the option of the court.

## VI. OFFENCES RELATING TO THE POST OFFICE.

16 July 1862 § 1.  
12 Stat. 585.

Fraudulent use  
of defaced post-  
age stamps, &c.

23. Any person who shall wilfully remove or cause to be removed from any postage stamp or stamped envelope the cancelling or defacing marks thereon, with intent to use the same or cause the use of the same the second time, or shall knowingly or wilfully sell or buy such washed or restored stamps, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the second use thereof, every such person shall, upon conviction thereof, be adjudged guilty of felony, and shall be punished by imprisonment not exceeding three years, or by fine not exceeding one thousand dollars, or by both imprisonment and fine as aforesaid; and one-half such fine, when collected, shall be paid to the informer.

## VII. CRIMINAL PROCEDURE.

16 July 1862 § 2.  
12 Stat. 589.

Jurors in capital  
cases.

24. That so much of section twenty-nine of an act entitled "An act to establish [the] judicial courts of the United States," approved September 24th 1789, (a) as requires, in cases punishable with death, twelve petit jurors to be summoned from the county where the offence was committed, be and the same is hereby repealed.

20 Feb. 1863 § 1.  
12 Stat. 660.

President may  
grant partial  
pardons.

25. That (to remove doubts as to the true meaning of former laws) hereafter, whenever by the judgment of any court or judicial officer of the United States, in any criminal proceeding, any person shall be sentenced, or shall have been sentenced heretofore, to two kinds of punishment, the one pecuniary and the other corporal, the president shall have full discretionary power to pardon or remit, in whole or in part, either one of the two kinds, without in any manner impairing the legal validity of the other kind, or of any portion of either kind, not pardoned or remitted.

Ibid. § 2.

Sentence of fine  
to be a judgment-  
debt.

26. In all criminal cases in which there has been or shall be a judgment or sentence against any person, as a fine or penalty, whether alone or along with any other kind of punishment, the same shall be deemed a judgment-debt, and (unless pardoned or remitted by the president) may be collected on execution in the common form of law.

(a) Ante 221, pl. 102.

A master is prevented in the free and lawful execution of his authority, within the meaning of the act of 1836 (210, pl. 44), if he be prevented from carrying into effect any one lawful command; and a command to continue the business of whaling is *prima facie* lawful. *United States v. Borden*, 21 Law Rep. 100.

A combination to refuse to pursue such business is not, of itself, the intimidation required to constitute the crime of revolt, but it may be the means of intimidation. *Ibid.*

Such combination and intimidation may be lawful. If, from the improper conduct of the captain, the crew have good reason to believe, and do believe, that they will be subjected to unlawful and cruel or oppressive treatment, or that a great wrong is about to be inflicted on one of their number, they have a right to take reasonable measures for his, or their own protection. *Ibid.*

What would be reasonable measures must depend upon the nature and extent of the wrong and upon the means of prevention, having regard to the importance of preserving the authority of the master, as well as to the importance of protecting the crew. *Ibid.*

To constitute the offence of fraudulently obtaining a letter under the last clause of the 22d section of the act 3 March 1825 (217, pl. 81), it must have been obtained from the post office, or from a letter carrier; after a voluntary delivery to a third person, the letter is no longer under the protection of the laws of the United States; and the act of fraudulently obtaining it from such third person is not punishable under the statute. *United States v. Parsons*, 2 Blatch. 104-5.

If a clerk in the post office take a letter containing money from its appropriated place of deposit, in the post office building, with intent to convert its contents to his own use, he is guilty of stealing it from the post office, under the 22d section of the act 3 March 1825 (217, pl. 81), although it be not removed beyond the building containing the post office. *United States v. Marsella*, 2 Blatch. 108.

One who is present, actually or constructively, at a murder aiding and abetting it, is a principal, not an accessory. *United States v. Douglas*, 2 Blatch. 207.

In an indictment against the captain of a steamboat, for manslaughter, under the 12th section of the act 7 July 1838 (203, pl. 10), it is not necessary to show *wifful* misconduct, negligence or inattention. The omission to give order for raising the safety valve, when the boat stops, is legal evidence to support an indictment against him. *United States v. Farnham*, 2 Blatch. 628-9.

The act 3 March 1823 (203, pl. 13) will support an indictment for the transmission of false affidavits and declarations in support of applications for bounty-land warrants. *United States v. Bickford*, 22 Law Rep. 273.

In such case it is not necessary to prove a transmission by the hand of the prisoner; assistance in procuring the papers for transmission by another is sufficient. *Ibid.*

The act 3 March 1837 (211, pl. 50) does not extend to the giving of a mortal wound on board of an American vessel whilst in waters within the territorial jurisdiction of a foreign nation, where the party afterwards dies on land, within the United States. *People v. Tyler*, 3 Cooley (Mich.) 162.

The master of a vessel may lawfully use a deadly weapon when necessary in order to suppress a mutiny. *Roberts v. Eldridge*, Sprague 54. But only in cases of necessity. *United States v. Colby*, *Ibid.* 119. An apparent necessity, however, will justify him. *United States v. Lunt*, *Ibid.* 311. He may use coercive measures to compel obedience to lawful orders. *United States v. Alden*, *Ibid.* 95. And so may any officer in case of emergency; but only the highest officer on board can inflict punishment for a past offence. *Shorey v. Rennell*, *Ibid.* 407.

One who knowingly harbors in his house persons engaged in making counterfeit coin therein, is guilty of *assisting* in making it. *United States v. Tarr*, 18 Leg. Int. 214.

## Currency.

1. Issue of notes authorized. To be a legal tender.
2. Postage currency authorized.
3. Penalty for issuing notes of less than one dollar.

4. Additional amount of legal tender notes.
5. Further issue of legal tender notes. Re issue thereof.
6. Fractional notes in lieu of postage currency.

1. That the secretary of the treasury is hereby authorized to issue, in addition to the amounts heretofore authorized, on the credit of the United States, one hundred and fifty millions of dollars of United States notes, not bearing interest, payable to bearer at the treasury of the United States, and of such denominations as he may deem expedient: *Provided*, That no note shall be issued for the fractional part of a dollar, and not more than thirty-five millions shall be of lower denominations than five dollars; and such notes shall be receivable in payment of all loans made to the United States, and of all taxes, internal duties, excises, debts and demands of every kind due to the United States, except duties on imports and interest, and of all claims and demands against the United States, except for interest upon bonds, notes and certificates of debt or deposit; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest, as aforesaid. (a)

11 July 1862 § 1.  
12 Stat. 532.

Issue of notes authorized.

To be a legal tender.

2. That the secretary of the treasury be and he is hereby directed to furnish to the assistant treasurers and such designated depositaries of the United States as may be by him selected, in such sums as he may deem expedient, the postage and other stamps of the United States, to be exchanged by them, on application, for United States notes; and from and after the first day of August next such stamps shall be receivable in payment of all dues to the United States less than five dollars, and shall be received in exchange for United States notes when presented to any assistant treasurer or any designated depositary selected as aforesaid in sums not less than five dollars.

17 July 1862 § 1.  
12 Stat. 592.

Postage currency authorized.

3. From and after the first day of August 1862, no private corporation, banking association, firm or individual shall make, issue, circulate or pay any note, check, memorandum, token or other obligation, for a less sum than one dollar, intended to circulate as money or to be received or used in lieu of lawful money of the United States; and every person so offending shall, on conviction thereof in any district or circuit court of the United States, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both, at the option of the court.

*Ibid.* § 2.

Penalty for issuing notes of less than one dollar.

4. That the secretary of the treasury be and he is hereby authorized, if required by the exigencies of the public service, to issue on the credit of the United States the sum of one hundred millions of dollars of United States notes, in such form as he may deem expedient, not bearing interest, payable to bearer on demand, and of such denominations not less than one dollar, as he may prescribe, which notes so issued shall be law-

17 Jan. 1863 § 1.  
12 Stat. 822.

Additional amount of legal tender notes.

(a) See *Shoenberger v. Watts*, 10 Am. L. R. 553. & c. 19 Leg. Int. 214, 309. *Hayne v. Powers*, 3 Leg. Obs. 170. *Crocker v. Wol-*

*ford*, 20 Leg. Int. 316. *Metropolitan Bank v. The Superintendent of the Bank Department*, *Ibid.* 332.

- 17 Jan. 1863. full money and a legal tender, like the similar notes heretofore authorized, in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt; and the notes so issued shall be part of the amount provided for in any bill now pending for the issue of treasury notes, or that may be passed hereafter by this congress.
- 3 March 1863 § 3. 5. That the secretary of the treasury be and he is hereby authorized, if required by the exigencies of the public service, for the payment of the army and navy, and other creditors of the government, to issue on the credit of the United States the sum of one hundred and fifty millions of dollars of United States notes, including the amount of such notes heretofore authorized by the joint resolution approved January 17th 1863, in such form as he may deem expedient, not bearing interest, payable to bearer, and of such denominations, not less than one dollar, as he may prescribe, which notes so issued shall be lawful money and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt; and any of the said notes, when returned to the treasury, may be reissued from time to time, as the exigencies of the public service may require. And in lieu of any of said notes, or any other United States notes, returned to the treasury, and cancelled or destroyed, there may be issued equal amounts of United States notes, such as are authorized by this act.
- 12 Stat. 710. Further issue of legal tender notes.
- Re-issue thereof.
- Ibid. § 4. 6. In lieu of postage and revenue stamps for fractional currency, and of fractional notes, commonly called postage currency, issued or to be issued, the secretary of the treasury may issue fractional notes of like amounts in such form as he may deem expedient, and may provide for the engraving, preparation and issue thereof in the treasury department building. And all such notes issued shall be exchangeable by the assistant treasurers and designated depositaries for United States notes in sums not less than three dollars, and shall be receivable for postage and revenue stamps, and also in payment of any dues to the United States less than five dollars, except duties on imports, and shall be redeemed on presentation at the treasury of the United States in such sums and under such regulations as the secretary of the treasury shall prescribe: *Provided*, That the whole amount of fractional currency issued, including postage, and revenue stamps issued as currency, shall not exceed fifty millions of dollars.

## Dakota.

### I. TERRITORIAL GOVERNMENT.

1. Territory of Dakota. Boundaries. Indian rights not to be impaired. May be divided, or attached to other territories or states.

### II. EXECUTIVE AUTHORITY.

2. Governor. Term of office. Residence. His powers, &c.
3. Secretary. His powers and duties. When to act as governor.

### III. LEGISLATIVE POWER.

4. Constitution of the legislative assembly. Council. House of representatives. Apportionment. Residence. Census. First election. New election in case of a tie. Subsequent elections. Duration of sessions.
5. Qualifications of voters.
6. Extent of legislative power.
7. Appointment of township, district and county officers.
8. Exclusion of members from office.
9. Veto power of the governor.

### IV. JUDICIARY.

10. Supreme court. District courts. Jurisdiction. Justices of

the peace. Chancery powers, &c. Clerks of district courts. Errors and appeals. Clerk of supreme court. Jurisdiction of supreme court of the United States. Powers of the district courts. Habeas corpus. What causes to have precedence. Fees of clerks.

11. District attorney. Marshal.
12. Judicial districts.
13. Laws of the United States extended to Dakota.

### V. LANDS AND LAND OFFICES.

14. School lands.
15. Surveyor-general.
16. Yancion district.
17. Register and receiver.

### VI. MISCELLANEOUS PROVISIONS.

18. Appointment of territorial officers. Salaries. Compensation of members of assembly. Contingent expenses.
19. Seat of government.
20. Delegate to congress.
21. Dakota river.

### I. TERRITORIAL GOVERNMENT.

2 March 1861 § 1.  
12 Stat. 239.

Territory of Dakota.  
Boundaries.

1. That all that part of the territory of the United States included within the following limits, namely: commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence up the main channel of the same, and along the boundary of the state of Minnesota, to Big Stone lake; thence along the boundary line of the said state of Minnesota to the Iowa line; thence along the boundary line of the state of Iowa to the point of intersection between the Big Sioux and Missouri rivers; thence up the Missouri river, and along the boundary line of the territory of Nebraska, to the mouth of the Niobrara or Running Water river; thence following up the same, in the middle of the main channel thereof, to the mouth of the Kaha Paha or Turtle Hill river; thence up said river to the forty-third parallel of north latitude; thence due west to the present boundary of the territory of Washington; thence along the boundary line of Washington territory, to the forty-ninth degree of north latitude; thence east, along said forty-ninth degree of north lati-

tude, to the place of beginning, be, and the same is hereby, organized into a temporary government, by the name of the territory of Dakota: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries and constitute no part of the territory of Dakota, until said tribe shall signify their assent to the president of the United States to be included within the said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property or other rights, by treaty, law or otherwise, which it would have been competent for the government to make if this act had never passed: *Provided further*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory into two or more territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other territory or state.

2 March 1861.  
Indian rights not  
to be impaired.

May be divided  
or attached to  
other territories  
or states.

## II. EXECUTIVE AUTHORITY.

2. The executive power and authority in and over said territory of Dakota, shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs; he may grant pardons for offences against the laws of said territory, and reprieves for offences against the laws of the United States until the decision of the president can be made known thereon: he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed. (a)

2 March 1861 § 2.  
12 Stat. 239.

Governor.  
Term of office.  
Residence.

His powers, &c.

3. There shall be a secretary of said territory, who shall reside therein, and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor, in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the president of the United States, and, at the same time, two copies of the laws to the speaker of the house of representatives and the president of the senate, for the use of congress; and in case of the death, removal or resignation, or other necessary absence of the governor from the territory, the secretary shall have, and he is hereby authorized and required, to execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

Ibid. § 3.

Secretary.  
His powers and  
duties.

When to act as  
governor.

## III. LEGISLATIVE POWER.

4. The legislative power and authority of said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of thirteen members, which may be increased to twenty-six, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and house of representatives, giving to each section of the territory representation in the ratio of its population (Indians excepted) as nearly as may be; and the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the territory to be taken; and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected, having the highest number of votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to

2 March 1861 § 4.  
12 Stat. 240.

Constitution of  
the legislative  
assembly.  
Council.  
House of repre-  
sentatives.

Apportionment.

Residence.

Census.

First election.

- 2 March 1861. be elected having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place, and on such day, as the governor shall appoint; but thereafter, the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.
- New election in case of a tie.  
Subsequent elections.
- Duration of sessions.
- Ibid.* § 5.  
Qualifications of voters.
5. Every free white male inhabitant of the United States, above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the constitution of the United States.
- Ibid.* § 6.  
Extent of legislative power.
6. The legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall any law be passed impairing the rights of private property; nor shall any discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.
- Ibid.* § 7.  
Appointment of township, district, and county officers.
7. All township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and, in the first instance, the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.
- Ibid.* § 8.  
Exclusion of members from office.
8. No member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said territory.
- 2 March 1863 § 2.  
12 Stat. 700.  
Veto power of the governor.
9. Every bill which shall have passed the legislative assembly shall before it become a law, be presented to the governor of the territory; if he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large on their journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor, within three days (Sundays excepted) after it shall be presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return, in which case it shall not be a law.(a)
- IV. JUDICIARY.
- 2 March 1861 § 9.  
12 Stat. 241.  
Supreme court.  
District courts.
10. The judicial power of said territory shall be vested in a supreme court, district courts, probate courts and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually, and they shall hold their offices during the period of four years. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said

(a) This is extended to Dakota territory by the 4th section of the same act.

districts by one of the justices of the supreme court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction, and authority for redress of all wrongs committed against the constitution or laws of the United States, or of the territory, affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, (a) where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said territory, and the respective judges thereof, shall and may grant writs of *habeas corpus*, in all cases in which the same are grantable by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeals in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of Nebraska territory now receive for similar services.

2 March 1861.

Jurisdiction.

Justices of the Peace.

Chancery powers, &amp;c.

Clerks of district courts.

Errors and appeals.

Clerk of supreme court.

Jurisdiction of supreme court of United States.

Powers of the district courts.

Habeas corpus.

What causes to have precedence.

Fees of clerk.

Ibid. § 10.

District attorney. Marshal.

Ibid. § 15.

Judicial districts.

Ibid. § 16.

Laws of the United States extended to Dakota

2 Mar. 1861 § 14. 12 Stat. 243.

School lands.

Ibid. § 17.

11. There shall be appointed an attorney for said territory, who shall continue in office for four years, unless sooner removed by the president, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Nebraska. There shall also be a marshal for the territory appointed, who shall hold his office for four years, unless sooner removed by the president, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present territory of Nebraska, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

12. Temporarily, and until otherwise provided by law, the governor of said territory may define the judicial districts of said territory and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

13. The constitution and all laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said territory of Dakota, as elsewhere within the United States.

#### V. LANDS AND LAND OFFICES.

14. When the land in said territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be and the same are hereby reserved for the purpose of being applied to schools in the states hereafter to be erected out of the same.

15. The president of the United States, by and with the advice and consent of the senate, shall be and he is hereby authorized to appoint a surveyor-general for Dakota,

(a) The writ of error may be issued by the clerk of the territorial court, and the citation signed, and the bond approved by one of the judges. *Sheppard v. Wilson*, 5 How. 210.



2 March 1861.  
Surveyor-general.

who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation and allowances for clerk hire, office rent, fuel and incidental expenses shall be the same as those of the surveyor-general of Nebraska and Kansas, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give him.

Ibid. § 18.  
Yancton district.

16. That so much of the public lands of the United States in the territory of Dakota, west of its eastern boundary and east and north of the Niobrara, or Running Water river, be formed into a land district, to be called the Yancton district, at such time as the president may direct; the land office for which shall be located at such point as the president may direct, and shall be removed from time to time to other points within said district whenever, in his opinion, it may be expedient.

Ibid. § 19.  
Register and receiver.

17. That the president be and he is hereby authorized to appoint, by and with the advice and consent of the senate, a register and receiver for said district, who shall respectively be required to reside at the site of said office, and who shall have the same powers, perform the same duties and be entitled to the same compensation as are or may be prescribed by law in relation to other land offices of the United States.

#### VI. MISCELLANEOUS PROVISIONS.

2 Mar. 1861 § 11.  
12 Stat. 242.

Appointment of  
territorial officers.  
Oath of office.

18. The governor, secretary, chief justice and associate justices, attorney and marshal shall be nominated, and, by and with the advice and consent of the senate, appointed by the president of the United States. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor, to defray the contingent expenses of the territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws and other incidental expenses; and the secretary of the territory shall annually account to the secretary of the treasury of the United States for the manner in which the aforesaid sum shall have been expended.

Salaries.

Compensation of  
members of assembly.

Contingent expenses.

Ibid. § 12.  
Seat of government.

19. The legislative assembly of the territory of Dakota shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct: and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

Ibid. § 13.  
Delegate to congress.

20. A delegate to the house of representatives of the United States, to serve during each congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives. The first election shall be held at such time and places, and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections, the times, places and manner of holding

elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

2 March 1861.

21. The river in said territory heretofore known as the "River aux Jacques," or "James River," shall hereafter be called the Dakota river.

Ibid. § 20.

Dakota river.

## Departments.

1. Estimates, how made.

2. Ruling and binding for the departments.

3. Oath of allegiance to be administered to clerks, &amp;c. Form

of oath. Penalty for refusal.

4. Before whom taken. Violation to be deemed perjury.

5. Temporary vacancies, how filled.

1. Hereafter the estimates for the various executive departments shall designate not only the amount required to be appropriated for the next fiscal year, but also the amount of the outstanding appropriation, if there be any, which will probably be required to be used for each particular item of expenditure.

2 June 1858 § 2.  
11 Stat. 308.

Estimates, how made.

2. All the ruling and binding for the several executive departments shall be executed by practical and competent bookbinders, to be appointed by the head of the department.

12 June 1858 § 14.  
11 Stat. 327.

3. It shall be the duty of the heads of the several departments to cause to be administered to each and every officer, clerk, or employé, now in their respective departments, or in any way connected therewith, or who shall hereafter in any way become connected therewith, the following oath, viz.: "*I do solemnly swear (or affirm, as the case may be) that I will support, protect and defend the constitution and government of the United States against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any state convention or legislature to the contrary notwithstanding; and further, that I do this with a full determination, pledge and purpose, without any mental reservation or evasion whatsoever; and further, that I will well and faithfully perform all the duties which may be required of me by law. So help me God.*" And each and every such civil officer and employé, in the departments aforesaid, or in any way connected therewith, in the service or employment of the United States, who shall refuse to take the oath or affirmation herein provided, shall be immediately dismissed and discharged from such service or employment.

6 August 1861 § 1.  
12 Stat. 326.Oath of allegiance to be administered to clerks &c.  
Form of oath. ✓

Penalty for refusal.

4. The oath or affirmation, herein provided for in the first section of this act, may be taken before any justice of the peace, or notary public, or other person who is legally authorized to administer an oath in the state or district where the same may be administered. And that any violation of such oath by any person or persons taking the same shall subject the offender to all the pains and penalties of wilful and corrupt perjury, who shall be liable to be indicted and prosecuted to conviction for any such offence before any court having competent jurisdiction thereof: *And provided further, That* such offender shall be forthwith discharged from such service or employment.

Ibid. § 2.

Before whom taken.

Violation to be deemed perjury.

5. In case of the death, resignation, absence from the seat of government, or sickness, of the head of any executive department of the government, or of any officer of either of the said departments whose appointment is not in the head thereof, whereby they cannot perform the duties of their respective offices, it shall be lawful for the president of the United States, in case he shall think it necessary, to authorize the head of any other executive department, or other officer in either of said departments, whose appointment is vested in the president, at his discretion, to perform the duties of the said respective offices, until a successor be appointed, or until such absence or inability by sickness shall cease: *Provided, That* no one vacancy shall be supplied in manner aforesaid for a longer term than six months.

20 Feb. 1863 § 1.  
12 Stat. 656.

Temporary vacancies, how filled.

vide supra  
p. 225

## District Attorneys.

1. Compensation for collections under the revenue laws. damages recovered.  
 2. For defending suits against collectors, &c. Payment of 3. To defend suits against officers. To make annual reports.

3 March 1863 § 11.  
 12 Stat. 741.

Compensation  
 for collections under  
 the revenue  
 laws.

Ibid. § 12.

For defending  
 suits against col-  
 lectors, &c.

Payment of dam-  
 ages recovered.

Ibid. § 13.

To defend suits  
 against officers.

To make annual  
 reports.

1. There shall be taxed and paid to district attorneys two per centum upon all moneys collected or realized in any suit or proceeding arising under the revenue laws conducted by them in which the United States is a party. The act in relation to costs, approved February 26th 1853, shall not apply to such allowances, and the same shall be in lieu of all costs and fees in such suit or proceedings.

2. In all suits or proceedings against collectors or other officers of the revenue for any act done by them, or for the recovery of any money exacted by or paid to such officer and by him paid into the treasury of the United States, in the performance of his official duty, in which any district or other attorney shall be directed to appear on behalf of such officer, by the secretary or solicitor of the treasury, or by any other proper officer of the government, such attorney shall be allowed such compensation for his services therein as shall be certified by the court in which such suit or proceedings shall be had, to be reasonable and proper, and approved by the secretary of the treasury. And where a recovery shall be had in any such suit or proceedings, and the court shall certify that there was probable cause for the act done by the collector or other officer, or that he acted under the directions of the secretary of the treasury or other proper officer of the government, no execution shall issue against such collector or other officer, but the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the treasury.

3. In all suits or proceedings against collectors or other officers of the revenue for any act done by them, or for the recovery of any money exacted by or paid to such officers, which shall have been paid into the treasury of the United States, it shall be the duty of the respective district attorneys within the district where such suit or proceedings shall be had, unless otherwise instructed by the secretary of the treasury, to appear on behalf of such officers. And it shall be the duty of the several district attorneys, on the first of October of each year, to make returns to the solicitor of the treasury of the number of proceedings and suits commenced, pending and determined within his district, during the fiscal year next preceding the date of such returns; which returns shall show the date when such proceedings or suits in each case commenced; and if for any reason the determination of such proceedings or suits shall have been delayed or continued beyond the usual or reasonable period, such reasons shall be set forth, together with a statement of the measures taken by the district attorneys to press such proceedings or suits to a close. And the returns hereby directed shall be embraced in a report by the solicitor to the secretary of the treasury, to be by him annually transmitted to congress, with a statement of all moneys received by the solicitor, and by each district attorney under the provisions of this act.

## District Courts.

1. Holding of courts, in case of vacancy in the office of district judge.

6 August 1861 § 11.  
 12 Stat. 318.

Holding of courts  
 in case of vacan-  
 cy in the office  
 of district judge.

1. In case of a vacancy in the office of district judge of any judicial district of the United States in any state in which there are two judicial districts, it shall be lawful for the district judge of the other district in said state to hold the district court or circuit court, in case of sickness or the absence of the circuit judge, and discharge all the judicial duties of the district judge of such vacant district so long as such vacancy shall continue; and all the acts and proceedings in said courts, or by or before the said district judge of the adjoining district, shall have the same force, effect and validity as if done and transacted by and before a judge appointed for such district.

# District of Columbia.

## I. COURTS.

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3. Jurisdiction. District court. Criminal court.
4. Terms of the courts.
5. Business at special terms. Appeals to general term.
6. Rules of practice.
7. Trial of issues.
8. Bills of exception. New trials. Appeals.
9. Hearing of rules for new trial, &c.
10. Tests of process.
11. Jurisdiction of supreme court of the United States.
12. Appeals from justices of the peace.
13. Prosecution of pending causes.
14. Removal of justices of the peace.
15. Salaries of judges.
16. Former courts abolished.

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18. Duty of secretary of the interior
19. Transportation of convicts.
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21. Transfer to penitentiary.
22. Extended to all persons convicted of crime.

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24. Notice to be filed in the circuit court, within three months. Such notices to be recorded.
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31. Several lien-creditors may join in one action. Actions may be consolidated.
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50. Alimony *pendente lite*.
51. When alimony, &c., to be forfeited for subsequent adultery.
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61. Report of commissioners. Settlement of conflicting claims.
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63. Compensation of commissioners, clerk and marshal. Expenses.
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65. Punishment of kidnapping, &c.
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70. By whom oath may be made on behalf of minors and non-residents. By persons in the military or naval service.
71. When statement may be filed by the slave.
72. Clerks to issue certificates of freedom.
73. Slaves brought into the district to be free.
74. Negroes competent witnesses.

## I. COURTS.

1. There shall be established in the District of Columbia a court to be called the Supreme Court of the District of Columbia, which shall have general jurisdiction in law and equity. It shall consist of four justices, one of whom shall be denominated as chief justice. These justices shall be appointed by the president, by and with the advice and consent of the senate, and shall hold their offices during good behavior. Each justice, before he enters upon the duties of his office, shall take the oath prescribed to be taken by judges of the courts of the United States. Any three of said justices may hold a general term, and any one of them may hold a special term or circuit court, as hereinafter provided. A special term may be held at the same time with a circuit court and by the same justice.

2. The said court shall have power to appoint a clerk, who shall take the oath and give a bond, with sureties, in the manner prescribed by law for clerks of district courts of the United States.

3. The supreme court organized by this act shall possess the same powers and exercise the same jurisdiction as is now possessed and exercised by the circuit court of the District of Columbia, and the justices of the court so to be organized shall severally possess the powers and exercise the jurisdiction now possessed and exercised by the judges of said circuit court. Any one of said justices may hold a district court of the United States for the District of Columbia, in the same manner and with the same powers and jurisdiction possessed and exercised by other district courts of the United States. Any one of said justices may also hold a criminal court for the trial of all crimes and offences arising within said district, which court shall possess the same powers and exercise the same jurisdiction now possessed and exercised by the criminal court of the District of Columbia.

4. General terms of the said supreme court shall be held at the same times at which terms of the circuit court of the District of Columbia are now required to be held, and at the same place. District courts and criminal courts shall also be held by one of said

3 March 1863 § 1.  
12 Stat. 762.

Supreme court.

General and special terms.

Ibid. § 2.  
Clerk.

Ibid. § 3.  
Jurisdiction.

District court.

Criminal court.

Ibid. § 4.  
Terms of the courts.

3 March 1863.

justices at the several times when such courts are now required by law to be held, and at the same place.

Ibid. § 5.

Business at special terms.

5. Special terms of said supreme court shall be held by one of said justices, at such time or times as the said court, in general term, shall appoint. Non-enumerated motions, in all suits and proceedings at law and in equity, shall first be heard and determined at such special terms. Suits in equity, not triable by jury, shall also be heard and determined at such special terms. But the justice holding such special term may, in his discretion, order any such motion or suit to be heard, in the first instance, at a general term. Any party aggrieved by any order, judgment or decree, made or pronounced at any such special term, may, if the same involve the merits of the action or proceeding, appeal therefrom to the general term of said supreme court, and upon such appeal the general term shall review such order, judgment or decree, and affirm, reverse or modify the same, as shall be just.

Appeals to general term.

Ibid. § 6.

Rules of practice.

6. The said court, in general term, shall adopt such rules as it may think proper, to regulate the time and manner of making appeals from the special term to the general term, and may prescribe the terms and conditions upon which such appeals may be made. Such court may also establish such other rules as it may deem necessary, for regulation of the practice of the several courts organized by this act, and from time to time, revise and alter such rules. It may also determine by rule, what motions shall be heard at a special term, as non-enumerated motions, and what motions shall be heard at a general term in the first instance.

Ibid. § 7.

Trial of issues.

7. All issues of fact triable by a jury, or by the court, shall be tried before a single justice; when the trial is by jury, at a circuit court; and when the trial is without a jury, at a circuit court or special term. Issues of law may be tried at a circuit court or special term. At any time after issue, and at least ten days before the sitting of the court, either party may give notice of trial. The party giving the notice shall furnish the clerk, at least four days before the sitting of the court, with a note of the issue, containing the title of the action, the names of the attorneys, and the time when the last pleading was served; and the clerk shall thereupon enter the cause upon a calendar, according to the date of the issue.

Ibid. § 8.

Bills of exception

8. If, upon the trial of a cause, an exception be taken, it may be reduced to writing at the time, or it may be entered on the minutes of the justice, and afterwards settled in such manner as may be provided by the rules of the court, and then stated in writing in a case or bill of exceptions, with so much of the evidence as may be material to the questions to be raised, but such case or bill of exceptions need not be sealed or signed. The justice who tries the cause may, in his discretion, entertain a motion, to be made on his minutes, to set aside a verdict and grant a new trial upon exceptions, or for insufficient evidence, or for excessive damages: *Provided*, That such motion be made at the same term or circuit at which the trial was had. When such motion is made and heard upon the minutes, an appeal to the general term may be taken from the decision, in which case a bill of exceptions or case shall be settled in the usual manner.

New trials.

Appeals.

Ibid. § 9.

Hearing of rules for new trial, &amp;c.

9. A motion for a new trial on a case, or a bill of exceptions, and an application for judgment on a special verdict, or a verdict taken subject to the opinion of the court, shall be heard in the first instance at a general term.

Ibid. § 10.

Tests of process.

10. Writs and process issued out of the court hereby organized may be tested in the name of any justice of said court.

Ibid. § 11.

Jurisdiction of supreme court of United States.

11. Any final judgment, order or decree of said court may be re-examined and reversed, or affirmed in the supreme court of the United States, upon writ of error or appeal, in the same cases and in like manner as is now provided by law in reference to the final judgments, orders and decrees of the circuit court of the United States for the District of Columbia.

Ibid. § 12.

Appeals from justices of the peace.

12. Appeals may be made from the judgments of justices of the peace to the court hereby organized, in like manner, and in the same cases in which such appeals are now allowed to the circuit court of the United States for the District of Columbia. Such appeals shall be heard and decided at a special term.

Ibid. § 13.

Prosecution of pending causes.

13. All suits and proceedings which, at the time this act takes effect, shall be pending in any of the courts hereby abolished shall be transferred to the courts to be established under the provisions of this act, and may be prosecuted therein with the same effect as they might have been in the court in which the same were commenced. Process issued out of any of said courts shall also be returned to the court hereby established.

Ibid. § 14.

Removal of justices.

14. Justices of the peace may be removed by the court to be organized under the provisions of this act at a general term, after due notice, and an opportunity to be heard in their defence, and for causes to be assigned in the order of removal.

15. The justices to be appointed by virtue of this act shall receive an annual salary of three thousand dollars, to be paid quarterly at the treasury of the United States. 3 Mar. 1863 § 15.  
Salaries of judges  
Ibid. § 16.  
Former courts  
abolished.

16. The circuit court, district court and criminal court of the District of Columbia are hereby abolished. All laws and parts of laws relating to said courts, so far as the same are applicable to the courts created by this act, are hereby continued in force in respect to such courts, and all other laws and parts of laws relating to said circuit, district and criminal courts are repealed.

## II. PENAL CODE.

17. All persons who shall hereafter be convicted by the criminal court of the District of Columbia of any offence, the punishment of which by law shall be confinement in the penitentiary, shall be confined during the term for which they shall be sentenced by said court in some suitable prison in a convenient state, where they can be employed at suitable labor, to be designated by the secretary of the interior. 16 Jan. 1863 § 1.  
12 Stat. 635.  
Imprisonment of  
convicts.

18. It shall be the duty of the secretary of the interior to contract with the managers or superintendent of a suitable prison, in some convenient state, for the imprisonment and subsistence and proper employment of all prisoners who shall be convicted in said court of such offences, on the best terms that he can; and he shall, on or before the first day of each term of the criminal court of the District of Columbia, inform said court in writing of the designation and location of the prison in which he shall have made provision for the confinement and support of prisoners; and said court shall sentence all persons who shall, during said term, be convicted of such offences, to confinement at hard labor in the prison so designated. Ibid. § 2.  
Duty of secretary

19. It shall be the duty of the secretary of the interior, to make suitable provision for the safe transportation of all prisoners to the prison to which they shall be sentenced by the court, and until they shall be so transported they shall be confined in the jail of Washington city. Ibid. § 3.  
Transportation  
of convicts.

20. The secretary of the interior shall also cause to be paid from such appropriations the sum of ten dollars to each prisoner, when he or she shall be legally discharged, to enable such prisoner to reach the point he or she may wish to go to. Ibid. § 5.  
Payment to dis-  
charged convicts.

21. Whenever a suitable penitentiary shall be erected in the District of Columbia, and completed for the reception of prisoners, it shall be the duty of the secretary of the interior, to cause to be transferred to such penitentiary all persons who shall then be imprisoned outside of the District of Columbia, under sentence of the criminal court of said district. Ibid. § 6.  
Transfer to peni-  
tentiary.

22. That the provisions of the act entitled "An act to provide for the imprisonment of persons convicted of crime by the criminal court of the District of Columbia," approved the 16th day of January 1863, be and are hereby made applicable to all persons who had been convicted of crime by the criminal court of the District of Columbia and sentenced to confinement in the penitentiary prior to the date of the act herein named, and subsequent to the transfer legalized by the fourth section thereof, and their transfer to the penitentiary at Albany, in the state of New York, in the present month, by order of the president of the United States, is likewise hereby legalized and declared valid; and the said persons so transferred shall continue in confinement in said prison until the expiration of their several terms of imprisonment, or until they shall be legally discharged or removed. 28 Jan. 1863 § 1.  
12 Stat. 823.  
Extended to all  
persons convict-  
ed of crime.

## III. MECHANICS' LIENS.

23. Any person who shall hereafter, by virtue of any contract with the owner of any building, or with the agent of such owner, perform any labor upon, or furnish any materials, engine or machinery, for the construction or repairing of such building, shall, upon filing the notice prescribed in section second of this act, have a lien upon such building and the lot of ground upon which the same is situated, for such labor done, or materials, engine or machinery furnished, when the amount shall exceed twenty dollars. 2 Feb. 1869 § 1.  
11 Stat. 378.  
Debts contracted  
for erecting or  
repairing a build-  
ing to be a lien.

24. Any person wishing to avail himself of this act, whether his claim be due or not, shall file in the office of the clerk of the circuit court for the District of Columbia, at any time after the commencement of the said building and within three months after the completion of such building or repairs, a notice of his intention to hold a lien upon the property declared by this act liable to such lien, for the amount due or to become due to him, specifically setting forth the amount claimed. Upon his failure to do so, the lien shall be lost. The clerk aforesaid shall file and record such notice in a book provided for that purpose. Ibid. § 2.  
Notice to be filed  
in the circuit  
court within  
three months.  
Such notices to  
be recorded.

25. Such lien shall cease to exist at the expiration of one year after the completion of the building or repairs, unless, before that time, an action to enforce the same shall have been commenced in the said circuit court by the person having such lien against the owner with whom or with whose agent the contract was made; unless such claim Ibid. § 3.  
Within what  
period suit to be  
commenced.

2 Feb. 1859

Ibid. § 4.

Form of complaint.

Ibid. § 5.

Service of process.

Ibid. § 6.

Proceedings and execution.

Ibid. § 7.

Precedence.

Apportionment.

Other property to be liable.

Ibid. § 8.

What curtilage to be embraced in the lien.

Ibid. § 9.

Several lien-creditors may join in one action. Actions may be consolidated.

Ibid. § 10.

Satisfaction to be entered in case of payment, &amp;c.

Penalty for neglect.

Ibid. § 11.

Lien may be discharged on giving security.

Ibid. § 12.

Liens on personal property.

Ibid. § 13.

Special agreements.

Ibid. § 14.

Act of 1833 repealed.

23 June 1860 § 1.  
12 Stat. 91.

be not due at the expiration of one year after such completion, in which case the action shall be commenced within three months after the same shall have become due.

26. The complaint of the plaintiff shall contain a brief statement of the contract on which the claim is founded, the amount due thereon, the time when the notice was filed with the clerk, the time when the building was completed, if it be completed, with a description of the premises, and any other material facts, and shall pray that the premises may be sold and the proceeds of the sale applied to the discharge of the lien.

27. The summons shall be served as in other cases, or, instead of service by publication, it may be made by delivering a copy thereof to the person in possession of the premises. If the defendant shall have sold or disposed of the premises before the service of the summons, the court shall direct notice of the proceedings to be served on the purchaser, or his agent for the premises, who may thereupon, if he desire it, be made a party defendant in the action.

28. The proceedings in an action to enforce such lien shall be the same as in other actions, except as otherwise provided in this act; and if judgment be rendered for the plaintiff, he may have execution issued against the premises, and thereupon the marshal shall proceed as upon other executions upon real property.

29. The liens created in pursuance of the provisions of this act shall have precedence over all other liens or incumbrances, which attached upon the premises subsequent to the time at which said notice was given. If, upon a sale of the premises on execution, the proceeds be insufficient to pay all such liens, the court shall order them to be paid in proportion to the amount, respectively, due to each. And any other property of the defendant, not exempt from execution, may be sold to satisfy such execution.

30. If the building be on any land lying outside the corporate limits of Washington City and Georgetown, the land upon which the same is erected, together with the space around the same, not exceeding five hundred square feet clear of the building, shall also be subject to the said lien, if the said land, at the time of the erection or repair of such building, shall have been the property of the person contracting for the erection or repair of the same. If the building be in Washington City or Georgetown, the ground on which the same is erected, and a space of ground equal to the front of the building, and extending to the depth of the lot or lots on which it is erected, shall also be bound by the said lien, subject to the foregoing proviso.

31. All or any number of persons, having liens on the same building, pursuant to the provisions of this act, may join in one action, but their claims shall be stated distinctly as in a separate action, and the judgment shall show the amounts to which they are respectively entitled. If several such actions be brought by different claimants, and be pending at the same time, the court may order them to be consolidated.

32. Whenever any person having a lien, by virtue of the provisions of this act, shall have received satisfaction for his claim, and the cost of his proceedings thereon, he shall, upon the request of any person interested, and upon the payment or tender of the costs of entering satisfaction, within six days after such payment or tender, enter satisfaction of his demand in the office of the clerk aforesaid; and upon failure to do so, he shall forfeit and pay fifty dollars to the party aggrieved, and all damages which he may have sustained in consequence of such failure or neglect.

33. In all proceedings, commenced under this act, the defendant may file a written undertaking, with surety to be approved by the court, to the effect that he will pay the judgment that may be recovered, and costs, and thereby release his property from the lien hereby created.

34. Any person, having possession of the same, who shall make, alter, repair or bestow any labor on any article of personal property, at the request of the owner or lawful possessor thereof, shall have a lien on such property so made, altered or repaired, or upon which labor has been bestowed, for his just and reasonable charges for the labor he has performed and the materials he has furnished; and such person may hold and retain possession of the same until such just and reasonable charges shall be paid; but if possession pass from such person, by his consent, the lien shall cease.

35. The provisions of section twelve of this act shall not interfere with any special agreement of the parties.

36. That the act entitled "An act to secure to mechanics and others," &c., approved March 2d 1833, (a) and all other acts and parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed; and this act shall take effect from the date of its passage.

#### IV. DEEDS AND MORTGAGES.

37. All the powers conferred upon a justice or justices of the peace in the District of

(a) Ante 247, pl. 103.

Columbia by the existing laws, in the acknowledgment of deeds for the conveyance of real or personal estate, may hereafter be exercised by any notary public duly appointed within said District of Columbia, and, when certified under the hand and official seal of such notary public, shall have the same force and effect as if taken or made by or before a justice or justices of the peace of said district.

23 June 1860.

Notaries may take acknowledgments.

38. There shall be appointed by the president, by and with the advice and consent of the senate, a register of deeds for the District of Columbia, who shall perform all the duties respecting the recording of deeds and other instruments of writing, and all other services connected therewith, authorized to be performed by the clerk of the circuit court of said district by the fifth section of the act approved March 3d 1801, entitled "An act supplementary to the act entitled 'An act concerning the District of Columbia,'" and shall receive the same fees and emoluments for the same. And the said register shall receive and have the charge and custody of all the records, papers and property which may be in the custody or possession of said clerk of the circuit court, properly appertaining to and belonging to the office of the register of deeds; and the said clerk is hereby required to deliver the same to said register upon proper application therefor.

14 Feb. 1863 § 1.  
12 Stat. 651.

Register of deeds to be appointed.

39. That the secretary of the interior be directed to appropriate such rooms in any of the public buildings under his charge for the use of said register as may be necessary for his accommodation, unless it shall appear to said secretary that such rooms cannot be so appropriated without interfering with the business of his department; and in that event the said register shall procure, with the approbation of said secretary, such rooms in the city of Washington as may be necessary for the security of the records and the convenient transaction of the business of said office.

Ibid. § 2.

Office of register of deeds.

## V. DIVORCES.

40. The circuit court for the District of Columbia shall have jurisdiction of all applications for divorces, to be made by petition, upon which the same proceedings shall be had as are had in other cases, except so far as is otherwise hereinafter provided.

19 June 1860 § 1  
12 Stat. 69

Jurisdiction.

41. The petition for a divorce shall specify the causes therefor with certainty; (a) and upon the same being filed, the clerk shall issue summons for the defendant to appear and answer. If it shall appear by the affidavit of a disinterested witness that the defendant is a non-resident of this district, or has been absent therefrom for the space of six months, the circuit court, after the return of one summons not found, may authorize notice of the pendency of the petition, to be given by publication, in such manner as it shall direct. The court shall proceed to hear and determine such cause, whenever such summons shall have been served twenty days, or such publication made forty days before the commencement of the term. No judgment for a divorce shall be rendered on default without proof; nor shall any admissions contained in the answer of the defendant be taken as proof of the facts charged as the ground of the application, but the same shall in all cases be proved by other evidence.

Ibid. § 2.

Petition.  
Process and return.

Proof.

42. A divorce *a vinculo matrimonii*, from the bond of marriage, may be granted in any of the following cases, to wit:

Ibid. § 3.

Causes of divorce *a vinculo matrimonii*.

I. Where such marriage was contracted whilst either of the parties thereto had a former wife or husband living, unless the former marriage shall have been lawfully dissolved, and no restraint shall have been imposed on the party contracting such second marriage.

II. Where such marriage was contracted during the lunacy of either party, or where either party was matrimonially incapacitated at the time of the marriage.

III. Where either party has committed adultery during the marriage.

43. A divorce *a mensa et thoro*, from bed and board, may be granted for either of the following causes, to wit: cruelty of treatment, endangering the life or health of one of the parties; (b) reasonable apprehension, to the satisfaction of the court, of bodily harm; (c) the wilful desertion and abandonment by the party complained against of the party complaining for the full uninterrupted space of three years. (d)

Ibid. § 4.

Causes of divorce *a mensa et thoro*.

44. No divorce shall be granted for any cause which shall have occurred out of this district, unless the party applying for the same shall have resided within the district for two years next preceding the application.

Ibid. § 5.

Residence.

45. Upon the dissolution of a marriage on account of either of the parties having a former wife or husband living, if it shall appear that the second marriage was contracted in good faith by the party whose second marriage has been thus dissolved, and with the full belief on his or her part that the former wife or husband was dead, that

Ibid. § 6.

When divorce on the ground of precontract not to bastardize the issue.

(a) See *Hoffman v. Hoffman*, 6 Casey 417.  
(b) See *Butler v. Butler*, 1 Pars. 329. *Paterson v. Paterson*, 12 Eng. L. & Eq. 19, 29. *Richards v. Richards*, 1 Grant 389; 1 Wright 226.

(c) See *Cattison v. Cattison*, 10 Harris 275. *Eshbach v. Eshbach*, 11 Ibid. 343.  
(d) See *Butler v. Butler*, 1 Pars. 329.



- 19 June 1860. fact shall be stated in the judgment or sentence of divorce; and the issue of such second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.
- Ibid.* § 7. 46. Upon the dissolution of a marriage on account of the lunacy of either party at the time of such marriage, the issue of the marriage shall be deemed to be legitimate.
- Lunacy. 47. A divorce for causes not hereinbefore specially provided for, shall not affect the legitimacy of the issue of the marriage; but the legitimacy of such issue, if questioned, shall be tried and determined according to the course of the common law.
- Ibid.* § 8. Other causes.
- Ibid.* § 9. 48. In all cases where a divorce is granted, the court allowing the same shall have power, if it see fit, to award alimony to the wife, and to retain her right of dower, and to award to the wife such property, or the value thereof, as she had when she was married, or such part, or the value thereof, as the court may deem reasonable, having a regard to the circumstances of the husband at the time of the divorce. The court may also, in granting a divorce *a vinculo matrimonii*, restore to the wife her maiden or other previous name.
- Alimony. Name.
- Ibid.* § 10. 49. The court shall also have power to order and direct, in every case of divorce, who shall have the guardianship and custody of the children of the marriage so divorced, and who shall be charged with their maintenance.
- Custody of children. *Ibid.* § 11. 50. The court may also award alimony to the wife for her sustentance during the pendency of a petition for a divorce filed for any of the causes aforesaid.(a)
- Ibid.* § 12. 51. In case of adultery by the wife, committed after judgment or sentence of divorce *a mensa et thoro*, the court may, on the petition of the husband setting forth and accompanied by legal proof of such adultery, deprive the wife of alimony from the date of her said criminal act, and rescind her right of dower, as well as dispossess her, if the court judge fit, of the care, custody and guardianship of any child or children, which, under the original judgment of the court in granting the divorce, may have been assigned to her.
- When alimony to be forfeited, &c. 52. A wife deserted by her husband may, at any time after such desertion, apply to the court in session, or to either one of the judges thereof, when the court is not in session, for an order to protect any money or other property, real or personal, of which she may have become possessed after such desertion, against her husband or his creditors, or any one claiming through or under him; and the court or a judge thereof, as the case may be, if the fact of such desertion be proved by evidence other than that of the wife herself, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings, money and property aforesaid, real or personal, acquired since the commencement of such desertion, from her husband and all creditors and persons claiming through or under him, and such earnings, money or property aforesaid shall belong to the wife as if she were a *feme sole*: *Provided always*, That every such order shall, within ten days after the making and giving thereof, be entered by the clerk of the court on the records of the county of Washington, in the District of Columbia; and that it shall be lawful for the husband and any creditor claiming through or under him, to apply to the court in session for the discharge thereof, and he may obtain it if, in the judgment of the court, good cause shall be shown why such order, by reason of fraud or of repugnance to the objects of this section, should not have been first made and given: *Provided also*, That if the husband, or any creditor of or person claiming through or under him, shall seize or continue to hold any property of the wife after notice and record of any such order, then the husband or such person shall be liable at the suit of the wife (which she is hereby empowered to bring) to restore to her the specific property, and also for a sum equal to double the value of the property so seized or held after such notice aforesaid; and if any such order of protection be made, the wife shall, during the continuance thereof, be and be deemed to have been, during such desertion of her, in the like position in all respects with regard to property and contracts, and suing and being sued as she would be if a *feme sole*.
- Ibid.* § 13. 53. Every person who shall wilfully and maliciously, or wantonly and without cause, in the District of Columbia, cut down or destroy, or by girdling, lopping or otherwise injuring any fruit or other tree, not his own, standing or growing for shade, ornament or other useful purpose, or shall maliciously destroy, mutilate or otherwise injure any statuery, monument or other work of art, standing or being on land not his own, or shall maliciously break down or injure any fence inclosing or belonging to another's
- Deserted wife may have the privileges of a *feme sole*.
- Proceedings to vacate order.
- Wife may sue for detention of her property.
- Damages.

## VI. MALICIOUS TRESPASSES.

- 22 June 1860 § 1. 53. Every person who shall wilfully and maliciously, or wantonly and without cause, in the District of Columbia, cut down or destroy, or by girdling, lopping or otherwise injuring any fruit or other tree, not his own, standing or growing for shade, ornament or other useful purpose, or shall maliciously destroy, mutilate or otherwise injure any statuery, monument or other work of art, standing or being on land not his own, or shall maliciously break down or injure any fence inclosing or belonging to another's
- 12 Stat. 88.
- Punishment of malicious trespasses.

(a) See *Auld v. Auld*, 4 Cr. C. C. 84. *Denton v. Denton*, 1 Johns. Ch. 364-5. If the husband be respondent, such order will be enforced by attachment; if libellant, by staying proceedings

until it be complied with. But in order to obtain an attachment, it must be shown that he is of ability to pay. *Ormsby v. Ormsby*, 1 Phila. R. 578-9. *Walker v. Walker*, 1 Curteis 564

land, or shall maliciously sever from the freehold of another any product thereof, or anything attached thereto, shall be punished by imprisonment in jail not more than three months, or by a fine not exceeding one hundred dollars.

22 June 1800.

54. Every person who, in said district, without color of right, shall wilfully commit any trespass by cutting down or destroying any timber or wood standing on the land of another, or by carrying away any kind of timber or wood cut down or lying on such land, or by digging up or carrying away any stone, ore, gravel, clay, sand, turf or mould from such land, or any roots, fruit or plant there being, or by cutting down or carrying away any grass, hay, grain or corn standing or being on such land, shall be punished by imprisonment in jail not more than sixty days, or by a fine not exceeding sixty dollars.

Ibid. § 2.

For wilful trespasses on the freehold.

55. Every person who, in said district, without color of right, shall wilfully commit any trespass by entering upon the garden, orchard or other improved land of another, with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit or vegetables there growing or being, shall be punished by imprisonment in jail not more than forty days, or by a fine not exceeding fifty dollars.

Ibid. § 3.

For trespassing on gardens, &amp;c.

56. Justices of the peace shall have exclusive original jurisdiction in all cases mentioned in the preceding sections, saving, however, to any party convicted before such justice, the right to a trial by jury on his appeal to the criminal court.

Ibid. § 4.

Jurisdiction of justices of the peace.

57. Every person convicted before a justice of the peace of any offence named in this act, and appealing therefrom, shall be committed to abide the sentence of the criminal court until he shall recognise, with sureties, in such reasonable sum as the justice shall require, with condition to, appear at said court, there to prosecute his appeal, and to abide sentence thereon. On such appeal being taken and bond filed, the justice shall make a copy of the conviction and other proceedings in the case, and transmit the same, together with the recognisance, to the clerk of the criminal court.

Ibid. § 5.

Appeals regulated.

## VII. ABOLITION OF SLAVERY.

58. All persons held to service or labor within the District of Columbia, by reason of African descent, are hereby discharged and freed of and from all claim to such service or labor; and from and after the passage of this act, neither slavery nor involuntary servitude, except for crime, whereof the party shall be duly convicted, shall hereafter exist in said district.

16 April 1862 § 1.  
12 Stat. 370.

Slavery abolished.

59. All persons loyal to the United States, holding claims to service or labor against persons discharged therefrom by this act, may, within ninety days from the passage thereof, but not thereafter, present to the commissioners hereinafter mentioned, their respective statements or petitions in writing, verified by oath or affirmation, setting forth the names, ages and personal description of such persons, the manner in which said petitioners acquired such claim, and any facts touching the value thereof, and declaring his allegiance to the government of the United States, and that he has not borne arms against the United States during the present rebellion, nor in any way given aid or comfort thereto: *Provided*, That the oath of the party to the petition shall not be evidence of the facts therein stated.

Ibid. § 2.

Loyal owners may petition for compensation.

Form of petition.

60. The president of the United States, with the advice and consent of the senate, shall appoint three commissioners, residents of the District of Columbia, any two of whom shall have power to act, who shall receive the petitions above mentioned, and who shall investigate and determine the validity and value of the claims therein presented as aforesaid, and appraise and apportion, under the proviso hereto annexed, the value in money of the several claims by them found to be valid: *Provided, however*, That the entire sum so appraised and apportioned shall not exceed, in the aggregate, an amount equal to three hundred dollars for each person shown to have been so held by lawful claim: *And provided further*, That no claim shall be allowed for any slave or slaves brought into said district after the passage of this act, nor for any slave claimed by any person who has borne arms against the government of the United States in the present rebellion, or in any way given aid or comfort thereto, or which originates in or by virtue of any transfer heretofore made, or which shall hereafter be made, by any person who has in any manner aided or sustained the rebellion against the government of the United States.

Ibid. § 3.

Commissioners to be appointed.

Their powers and duties.

No allowance to be made in certain cases.

61. Said commissioners shall, within nine months from the passage of this act, make a full and final report of their proceedings, findings and appraisement, and shall deliver the same to the secretary of the treasury, which report shall be deemed and taken to be conclusive in all respects, except as hereinafter provided; and the secretary of the treasury shall, with like exception, cause the amounts so apportioned to said claims to be paid from the treasury of the United States, to the parties found by said report to be entitled thereto as aforesaid, and the same shall be received in full and complete compensation: *Provided*, That in cases where petitions may be filed presenting conflicting

Ibid. § 4.

Report of commissioners.

16 April 1862.

Settlement of  
conflicting  
claims.

claims or setting up liens, said commissioners shall so specify in said report, and payment shall not be made according to the award of said commissioners, until a period of sixty days shall have elapsed, during which time, any petitioner claiming an interest in the particular amount, may file a bill in equity in the circuit court of the District of Columbia, making all other claimants defendants thereto, setting forth the proceedings in such case before said commissioners and their action therein, and praying that the party to whom payment has been awarded may be enjoined from receiving the same: and if said court shall grant such provisional order, a copy thereof may, on motion of said complainant, be served upon the secretary of the treasury, who shall thereupon cause the said amount of money to be paid into said court, subject to its orders and final decree, which payment shall be in full and complete compensation, as in other cases.

Ibid. § 5.

Sessions of com-  
missioners.

Witnesses.

Clerk.

Duties of mar-  
shal.

Ibid. § 6.

Compensation of  
commissioners,  
clerk and mar-  
shal.

Expenses.

Ibid. § 7.

Appropriation.

Ibid. § 8.

Punishment of  
kidnapping, &c.

Ibid. § 9.

Statements to be  
filed by owners  
of slaves.

Ibid. § 10.

Certificates of  
freedom to be de-  
livered.

Ibid. § 11.

Emigration to be  
encouraged.

Ibid. § 12.

62. Said commissioners shall hold their sessions in the city of Washington, at such place and times as the president of the United States may direct, of which they shall give due and public notice. They shall have power to subpoena and compel the attendance of witnesses, and to receive testimony and enforce its production, as in civil cases before courts of justice, without the exclusion of any witness on account of color; and they may summon before them the persons making claim to service or labor, and examine them under oath; and they may also, for purposes of identification and appraisal, call before them the persons so claimed. Said commissioners shall appoint a clerk, who shall keep files and [a] complete record of all proceedings before them, who shall have power to administer oaths and affirmations in said proceedings, and who shall issue all lawful process by them ordered. The marshal of the District of Columbia shall personally, or by deputy, attend upon the sessions of said commissioners, and shall execute the process issued by said clerk.

63. Said commissioners shall receive in compensation for their services the sum of two thousand dollars each, to be paid upon the filing of their report; said clerk shall receive for his services the sum of two hundred dollars per month; said marshal shall receive such fees as are allowed by law for similar services performed by him in the circuit court of the District of Columbia; the secretary of the treasury shall cause all other reasonable expenses of said commission to be audited and allowed, and said compensation, fees and expenses shall be paid from the treasury of the United States.

64. For the purpose of carrying this act into effect, there is hereby appropriated, out of any money in the treasury not otherwise appropriated, a sum not exceeding one million of dollars.

65. Any person or persons who shall kidnap, or in any manner transport or procure to be taken out of said district, any person or persons discharged and freed by the provisions of this act, or any free person or persons, with intent to re-enslave or sell such person or persons into slavery, or shall re-enslave any of said freed persons, the person or persons so offending shall be deemed guilty of a felony, and on conviction thereof in any court of competent jurisdiction in said district, shall be imprisoned in the penitentiary not less than five nor more than twenty years.

66. Within twenty days, or within such further time as the commissioners herein provided for shall limit, after the passage of this act, a statement in writing or schedule shall be filed with the clerk of the circuit court for the District of Columbia, by the several owners or claimants to the services of the persons made free or manumitted by this act, setting forth the names, ages, sex and particular description of such persons, severally; and the said clerk shall receive and record, in a book by him to be provided and kept for that purpose, the said statements or schedules on receiving fifty cents each therefor, and no claim shall be allowed to any claimant or owner who shall neglect this requirement.

67. The said clerk and his successors in office shall, from time to time, on demand, and on receiving twenty-five cents therefor, prepare, sign and deliver to each person made free or manumitted by this act, a certificate under the seal of said court, setting out the name, age and description of such person, and stating that such person was duly manumitted and set free by this act.

68. The sum of one hundred thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby appropriated, to be expended under the direction of the president of the United States, to aid in the colonization and settlement of such free persons of African descent, now residing in said district, including those to be liberated by this act, as may desire to emigrate to the republics of Hayti or Liberia, or such other country beyond the limits of the United States as the president may determine: *Provided*, The expenditure for this purpose shall not exceed one hundred dollars for each emigrant.

69. All acts of congress and all laws of the state of Maryland in force in said district,

and all ordinances of the cities of Washington and Georgetown, inconsistent with the provisions of this act, are hereby repealed. 16 April 1862.

70. The oath or affirmation required by the second section of the act entitled "An act for the release of certain persons held to service or labor in the District of Columbia," to verify the statements or petitions in writing filed before the commissioners, under the act aforesaid, of persons holding claim to service or labor against persons of African descent, freed and discharged therefrom under the act aforesaid, may in all cases in which the persons holding claims as aforesaid, are infants or minors, be made by the guardian or by any other person, whether separately or jointly, having the custody, management or control by law of the person and property of such infants or minors; and in all cases in which the persons holding claims as aforesaid are non-residents of the District of Columbia, or resident absentees, the oath or affirmation required as aforesaid may be made by the attorney or agent of said non-resident or resident absentees; and in all cases in which the statements or petitions, required as aforesaid, of persons in the military or naval service of the United States, shall have been or may be hereafter verified before any commander of any military post, or of any officer having a separate command of any military force in the field, or before any captain, commander or lieutenant commanding in the navy, the same shall be received and deemed valid, to all intents and purposes, as fully as if the verification had been or were made before any officer competent by law to take and administer oaths and affirmations: *Provided*, That the commissioners shall be satisfied that, at the time of the verification aforesaid, the person making the same was employed in the military or naval service of the United States within the jurisdiction of a rebellious state or territory, and unable to make the oath or affirmation required, as aforesaid, before any officer authorized by law to take or administer the same, holding allegiance to the United States.

12 July 1862 § 1.  
12 Stat. 533.

By whom oath may be made on behalf of minors, and non-residents.

By persons in the military or naval service.

71. If any person having claim to the service or labor of any person or persons in the District of Columbia by reason of African descent, shall neglect or refuse to file with the clerk of the circuit court of the District of Columbia the statement in writing, or schedule provided in the ninth section of the act approved April 16th 1862, to which this is supplementary, then it shall be lawful for the person or persons whose services are claimed as aforesaid, to file such statement in writing or schedule setting forth the particular facts mentioned in said ninth section; and the said clerk shall receive and record the same as provided in said section, on receiving fifty cents each therefor.

*Ibid.* § 2.

When statement may be filed by the slave.

72. Whenever the facts set forth in the said statement or schedule shall be found by the commissioners to be true, the said clerk and his successors in office shall prepare, sign and deliver certificates, as prescribed in the tenth section of the act to which this is supplementary, to such person or persons as shall file their statements in pursuance of the foregoing section, in all respects the same as if such statements were filed by the person having claim to their service or labor.

*Ibid.* § 3.

Clerk to issue certificates of freedom.

73. All persons held to service or labor under the laws of any state, and who at any time since the 16th day of April, Anno Domini 1862, by the consent of the person to whom such service or labor is claimed to be owing, have been actually employed within the District of Columbia, or who shall be hereafter thus employed, are hereby declared free and for ever released from such servitude, anything in the laws of the United States or of any state to the contrary notwithstanding.

*Ibid.* § 4.

Slaves brought into the district to be free.

74. In all judicial proceedings in the District of Columbia there shall be no exclusion of any witness on account of color.

*Ibid.* § 5.

## Equity.

It seems, that the act 2 March 1793 (256, pl. 3), prohibiting the courts of the United States from granting injunctions to stay proceedings in the state courts, extends to a sale on execution. *United States v. Collins*, 21 Law Rep. 37.

## Errors and Appeals.

1. Errors and appeals in cases of patent and copyright.
2. United States may appeal without security. Payment of costs.

19 Jan. 1861 § 1.  
12 Stat. 130.

Errors and appeals in cases of patent and copyright.

21 Feb. 1863 § 1.  
12 Stat. 657.

United States may appeal without security.

Payment of costs.

1. From all judgments and decrees of any circuit court rendered in any action, suit, controversy or case, at law or in equity, arising under any law of the United States granting or confirming to authors the exclusive right to their respective writings, or to inventors the exclusive right to their inventions or discoveries, a writ of error or appeal, as the case may require, shall lie, at the instance of either party, to the supreme court of the United States, in the same manner and under the same circumstances as is now provided by law in other judgments and decrees of such circuit courts, without regard to the sum or value in controversy in the action.

2. Whenever any writ of error, appeal or other process in law, admiralty or equity shall issue from or be brought up to the supreme court of the United States, either by the United States or by direction of any department of the government thereof, no bond, obligation or security shall be required from the United States, or from any party acting under the direction aforesaid, by any judge or clerk of court, either to prosecute said suit or to answer in damages or costs. In case of an adverse decision, such costs as by law are taxable against the United States, shall be paid out of the contingent fund of the department under whose direction the proceedings shall have been instituted.

An appeal is a supersedeas, if taken within ten days after its rendition, or within ten days after it is settled and signed. *Ellsby v. Footo*, 20 How. 290.

Under the 25th section of the judiciary act (259, pl. 5), if the jurisdiction be not shown upon the record, the writ of error must be dismissed; but under the 22d section (257, pl. 2), if no error appear upon the record, the judgment must be affirmed. *Suydam v. Williamson*, 20 How. 428.

A second writ of error issued after a mandate from the supreme court, brings up for revision nothing but the subsequent proceedings. *Roberts v. Cooper*, 20 How. 467.

The supreme court has no jurisdiction to review the judgment of a state court, where the question involved merely related to the proper boundary between two tracts of land, although both owners had valid grants from the United States. *Morland v. Page*, 20 How. 522.

If a libellant, in the admiralty, claim less than \$50, but at the time of making the decree, it amount with interest to more than \$50, an appeal will lie. And on the appeal, full costs may be taxed. *Godfrey v. Gilmartin*, 2 Blatch. 340.

A writ of error must be made returnable on the first day of the term. A mistake in the return day is not amendable. *Insurance Co. of the Valley of Virginia v. Mordecai*, 21 How. 195.

Where the parties agree that the court below shall decide questions both of law and fact, their judgment is not reviewable by writ of error. The facts must be found by a jury, or agreed upon in a case stated. *Campbell v. Boyreau*, 21 How. 223; *Kelsey v. Forsyth*, *Ibid.* 85; *Guild v. Frontin*, 18 *Ibid.* 135; *Suydam v. Williamson*, 20 *Ibid.* 432. Consent of parties cannot give jurisdiction. *Montgomery v. Anderson*, 21 *Ibid.* 386; *Ballance v. Forsyth*, *Ibid.* 389.

A decree, in admiralty, for the payment of a sum of money, the amount of which is dependent on other claims, that might be established, is not a final decree from which an appeal lies. *Montgomery v. Anderson*, 21 How. 386.

On an appeal to the circuit court, in admiralty, it is error to remand the cause to the district court; the circuit court must execute its own decree. *Ibid.*

An action against a collector for the return of duties paid under protest, is not within the act 3 May 1844 (261, pl. 11), authorizing a writ of error without regard to the amount in controversy. *Mason v. Gamble*, 21 How. 390.

A decree final in other respects, is not converted into an interlocutory one, because it directs a taxation of costs. *Craig v. The Hartford*, 1 McAllister 91.

A writ of error, in which the plaintiff in error is erroneously named as the defendant, cannot be amended in the supreme court; an amendment presupposes jurisdiction of the case; and the court acquires no jurisdiction until the cause is properly brought up by a writ of error sued out by the party aggrieved. *Hodge v. Williams*, 22 How. 88.

An appeal does not lie from a state court, under the 25th section of the judiciary act; a writ of error alone can bring up the case. *Verden v. Coleman*, 22 How. 192.

Where the decision of a state court is against the validity of an entry of land which has been allowed by the proper officers of the United States, the supreme court has jurisdiction to revise the judgment, whether the invalidity were decreed upon a question of fact or of law. *Lytle v. Arkansas*, 22 How. 193.

If the citation be not duly served, the writ of error will be dismissed. A service on the attorney of the defendant in error is sufficient. *Bacon v. Hart*, 1 Black 38.

## Evidence.

1. State laws as to competency of witnesses to be rules of decision in the federal courts.
2. How depositions may be taken to be used in foreign courts.
3. Penalty for refusing to testify.

4. Fees of witnesses.
5. How commissions to foreign countries to be returned when the United States is a party.

6 July 1862 § 1.  
12 Stat. 588.

3 March 1863 § 1.  
12 Stat. 709.

How depositions may be taken to be used in foreign courts.

1. The laws of the state in which the court shall be held, shall be the rules of decision as to the competency of witnesses, in the courts of the United States, in trials at common law, in equity and admiralty.

2. The testimony of any witness residing within the United States, to be used in any suit for the recovery of money or property depending in any court in any foreign country with which the United States are at peace, and in which the government of such foreign country shall be a party or shall have an interest, may be obtained, to be used in such suit. If a commission or letters rogatory to take such testimony shall have been issued from the court in which said suit is pending, on producing the same before the district judge of any district where said witness resides or shall be found, and on due proof being made to such judge that the testimony of any witness is material to the party desiring the same, such judge shall issue a summons to such witness requiring him to appear before the officer or commissioner named in such commission or

letters rogatory, to testify in such suit. Such summons shall specify the time and place at which such witness is required to attend, which place shall be within one hundred miles of the place where said witness resides, or shall be served with said summons.

3 March 18C3.

3. If any person shall refuse or neglect to appear at the time and place mentioned in the summons issued in accordance with this act, or if, upon his appearance, he shall refuse to testify, he shall be liable to the same penalties as would be incurred for a like offence on the trial of a suit in the district court of the United States.

Ibid. § 2.

Penalty for refusing to testify.

4. Every witness who shall appear and testify, in manner aforesaid, shall be allowed and shall receive from the party, at whose instance he shall have been summoned, the same fees and mileage as are allowed to witnesses in suits depending in the district courts of the United States.

Ibid. § 3.

Fees of witnesses.

5. Whenever any commission or letters rogatory, issued to take the testimony of any witness in a foreign country, in any suit in which the United States are parties or have an interest, shall have been executed by the court, or the commissioner to whom the same shall have been directed, the same shall be returned by such court or commissioner to the minister or consul of the United States nearest the place where said letters or commission shall have been executed, who, on receiving the same, shall indorse thereon a certificate, stating the time and place when and where the same was received, and that the said deposition is in the same condition as when he received the same; and he shall thereupon transmit the said letters or commission, so executed and certified, by mail, to the clerk of the court from which the same issued, in the manner in which his official despatches are transmitted to the government. And the testimony of witnesses so, as aforesaid, taken and returned, shall be read as evidence on the trial of the suit in which the same shall have been taken, without objection as to the method of returning the same.

Ibid. § 4.

How commissions to foreign countries to be returned when the United States is a party.

Under § 15 of the judiciary act (262, pl. 3), it is not enough for a defendant to give notice to produce books and papers on the trial, and then move for a judgment of nonsuit; there must be a motion for an order to produce them. *Thompson v. Selden*, 20 How. 195. See *Jacques v. Collins*, 2 Blatch. 28; *Finch v. Rike*

man, *Ibid.* 301.

The 30th section of the judiciary act (262, pl. 5) does not apply to a witness casually absent from home, though found more than 100 miles from the place of trial, unless aged, infirm, &c. *Ex parte Humphrey*, 2 Blatch. 228.

## Extradition.

### I. GENERAL PROVISIONS.

1. How papers to be authenticated.

### II. TREATY WITH FRANCE.

2. Extended to cases of forgery, counterfeiting and embezzlement.

### III. TREATY WITH BADEN.

3. Criminals to be delivered up. For what offences. Evidence. Jurisdiction. Expenses. Not to extend to political offenders.  
4. Not to deliver up their own citizens.  
5. Nor until after trial for offences in the country where found.

### IV. TREATY WITH SWEDEN.

6. Criminals to be delivered up. Evidence.  
7. For what offences.  
8. Expenses.  
9. Not to apply to citizens.  
10. Nor to political offences.  
11. Persons so charged to be delivered up.

### V. TREATY WITH VENEZUELA.

12. Fugitives to be delivered up. Evidence.  
13. For what offences.  
14. Surrender and expenses.  
15. Not to apply to political offences.

### I. GENERAL PROVISIONS.

1. In all cases where any depositions, warrants or other papers, or copies thereof, shall be offered in evidence upon the hearing of an extradition case under the second section of the act entitled "An act for giving effect to certain treaty stipulations between this and foreign governments for the apprehension and delivery up of certain offenders," approved August 12th 1848, (a) such depositions, warrants and other papers, or copies thereof, shall be admitted and received for the purposes mentioned in the said section, if they shall be properly and legally authenticated, so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped, and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country, shall be proof that any paper or other document so offered is authenticated in the manner required by this act.

22 June 1860 § 1.  
12 Stat. 84.

How papers to be authenticated.

### II. TREATY WITH FRANCE.

2. It is agreed between the high contracting parties that the provisions of the treaties for the mutual extradition of criminals between the United States of America and France, of November 9th 1843, and February 24th 1845, and now in force between the two governments, shall extend not only to persons charged with the crimes therein mentioned, but also to persons charged with the following crimes, whether as principals, accessories or accomplices, namely: forging or knowingly passing or putting in circula-

10 February 1858.  
11 Stat. 163.

Extended to cases of forgery, counterfeiting and embezzlement.

10 February 1858. tion counterfeit coin or bank notes or other paper current as money, with intent to defraud any person or persons; embezzlement by any person or persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

### III. TREATY WITH BADEN.

30 Jan. 1857 art. 1.  
11 Stat. 120.

Criminals to be delivered up.

For what offences.

Evidence.

Jurisdiction.

Expenses.

Not to extend to political offenders.

Ibid. art. 2.

Not to deliver up their own citizens.

Ibid. art. 3.

Nor until after trial for offences in the country where found.

3. It is agreed that the United States and Baden shall, upon mutual requisitions by them, or their ministers, officers or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the fabrication or circulation of counterfeit money, whether coin or paper money, or the embezzlement of public moneys, committed within the jurisdiction of either party, shall seek an asylum, or shall be found within the territories of the other: *Provided*, That this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; (a) and the respective judges and other magistrates of the two governments shall have power, jurisdiction and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges or other magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate, to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive. Nothing in this article contained shall be construed to extend to crimes of a political character.

4. Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention.

5. Whenever any person accused of any of the crimes enumerated in this convention shall have committed a new crime in the territories of the state where he has sought an asylum, or shall be found, such person shall not be delivered up under the stipulations of this convention until he shall have been tried, and shall have received the punishment due to such new crime, or shall have been acquitted thereof.

### IV. TREATY WITH SWEDEN.

21 Mar. 1860 art. 1.  
12 Stat. 167.

Criminals to be delivered up.

Evidence.

Ibid. art. 2.

For what offences.

Ibid. art. 3.

Expenses.

Ibid. art. 4.

6. It is agreed that the high contracting parties shall, upon mutual requisitions by them, their diplomatic or consular agents, respectively made, deliver up to justice all persons who, being charged with or condemned for any of the crimes enumerated in the following article, committed within the jurisdiction of either party, shall seek an asylum or shall be found within the territories of the other: *Provided*, That this surrender and delivery shall not be obligatory on either of the high contracting parties except upon presentation by the other, in original or in verified copy, of the judicial declaration or sentence establishing the culpability of the fugitive, and issued by the proper authority of the government who claims the surrender, in case such sentence or declaration shall have been pronounced: said document to be drawn up and certified according to the forms prescribed by the laws of the country making the demand. But if such sentence or declaration shall not have been pronounced, then the surrender may be demanded, and shall be made, when the demanding party shall have furnished such proof of culpability as would have been sufficient to justify the apprehension and commitment for trial of the accused, if the offence had been committed in the country where he shall have taken refuge.

7. Persons shall be so delivered up who shall have been charged with or sentenced for any of the following crimes, to wit: murder, (including assassination, parricide, infanticide and poisoning,) or attempt to commit murder; rape; piracy, (including mutiny on board a ship, whenever the crew or part thereof, by fraud or violence against the commander, have taken possession of the vessel;) arson; robbery and burglary; forgery, and the fabrication or circulation of counterfeit money, whether coin or paper money; embezzlement by public officers, including appropriation of public funds.

8. The expenses of any detention and delivery, effected in virtue of the preceding provisions, shall be borne and defrayed by the party who makes the requisition and receives the fugitive.

9. Neither of the contracting parties shall be bound to deliver up, under the stipulations of this convention, any person who, according to the laws of the country where he

(a) If the offence charged be punishable as a crime, by the laws of the state in which the fugitive is found, at the time of its commission, he may be surrendered up, though such act were not a criminal offence at the date of the treaty. *Miller's Case*, 30 Leg. Int. 301. A prior discharge, by another judge, not upon the merits, is not a bar to the application. *Ibid*.

shall be found, is a citizen or a subject of the same at the time his surrender is demanded.

21 Mar. 1860.

10. The provisions of the present convention shall not be applied to any crime or offence of a political character.

Ibid. art. 5.

Nor to political offences.

11. Whenever any person, accused of any of the crimes enumerated in this convention, shall have committed a new crime in the territories of the state where he has sought an asylum, or shall be found, such person shall not be delivered up under the stipulations of this convention until he shall have been tried, and shall have received the punishment due to such new crime, or shall have been acquitted thereof.

Ibid. art. 6.

Persons so charged to be delivered up.

#### V. TREATY WITH VENEZUELA.

12. The United States of America and the republic of Venezuela, on requisitions made in their name through the medium of their respective diplomatic and consular agents, shall deliver up to justice persons who, being charged with the crimes enumerated in the following article, committed within the jurisdiction of the requiring party, shall seek asylum or shall be found within the territories of the other: *Provided*, That this shall be done only when the fact of the commission of the crime shall be so established as to justify their apprehension and commitment for trial, if the crime had been committed in the country where the persons so accused shall be found; in all of which the tribunals of said country shall proceed and decide according to their own laws.

25 Sept. 1861 art. 27. 12 Stat. 223.

Fugitives to be delivered up.

Evidence.

13. Persons shall be delivered up, according to the provisions of this convention, who shall be charged with any of the following crimes, to wit: murder, (including assassination, parricide, infanticide and poisoning;) attempt to commit murder; rape; forgery; the counterfeiting of money; arson; robbery with violence, intimidation or forcible entry of an inhabited house; piracy; embezzlement by public officers, or by persons hired or salaried, to the detriment of their employers, when these crimes are subject to infamous punishment.

Ibid. art. 28.

For what offences.

14. On the part of each country the surrender shall be made only by the authority of the executive thereof. The expenses of detention and delivery effected in virtue of the preceding articles, shall be at the cost of the party making the demand.

Ibid. art. 29.

Surrender and expenses.

15. The provisions of the foregoing articles relating to the surrender of fugitive criminals shall not apply to offences committed before the date hereof, nor to those of a political character.

Ibid. art. 30.

Not to apply to political offences.

## Fines, Penalties and Forfeitures.

1. Certain penalties to be refunded to owners and masters of vessels. On proof of *bona fides*.

3. Limitations of suits for fines, &c., under the revenue laws repealed.

2. Secretary may remit penal duties in certain cases.

1. That the secretary of the treasury be and he is hereby authorized, to pay, out of any moneys in the treasury not otherwise appropriated, to the person or persons entitled to receive the same, the amount of such fines or penalties as have been incurred and paid by the owners or masters of vessels since the first day of December 1860, in consequence of their failure to produce to collectors of the customs the clearances or other papers prescribed and required by the laws of the United States regulating the issue of marine papers, and the foreign and coasting trades: *Provided*, That the secretary of the treasury shall be satisfied in each case that there was no wilful negligence, or any intention of fraud on the part of the person or persons incurring the fines or penalties aforesaid, and that they were unable to obtain the requisite papers, by reason of there being no officer of the customs at the port of departure authorized to issue marine papers, or to grant clearances under the laws of the United States.

24 July 1861 § 1. 12 Stat. 271.

Certain penalties to be refunded to owners and masters of vessels.

On proof of *bona fides*.

2. That the secretary of the treasury be and is hereby authorized to remit, in whole or in part, on such conditions and under such regulations, not inconsistent with law, as he may prescribe, the additional duty secured by the bond given for the transportation of merchandise from a port in one collection district to a port in another collection district, prescribed by the sixth section of the act entitled "An act to extend the warehousing system by establishing private bonded warehouses, and for other purposes," approved the 28th day of March 1854: (a) *Provided*, That it shall be proved to the satisfaction of the secretary of the treasury that the failure to transport and deliver the merchandise aforesaid, according to the conditions of the bond, occurred without wilful negligence or fraudulent intent on the part of the obligors.

Ibid. § 3.

Treasury may remit penal duties, in certain cases.

3. That the 17th section of the act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July 14th 1862, and so much of the 89th section of the act entitled "An act to regulate the collection of duties on imports and

3 Mar. 1863 § 14. 12 Stat. 741.



3 March 1863. tonnage," approved March 2d 1799, and so much of the 3d section of the act entitled "An act in addition to the act for the punishment of certain crimes against the United States," approved March 26th 1804, as impose any limitation upon the commencement of any action or proceeding for the recovery of any fine, penalty or forfeiture incurred by reason of the violation of any law of the United States relating to the importation or entry of goods, wares or merchandise, are hereby repealed.

Limitations of suits for fines, &c. under the revenue laws repealed.

## Fisheries.

A private parol agreement with the crew of a fishing vessel to purchase their shares at a fixed rate, destroys the right to bounty. *Crowell v. United States*, 21 Law Rep. 466.

A payment of bounty made without the production of the shipping paper required by the act of congress, is unauthorized, and may be recovered back. *Ibid.*

The shares of the fishermen, on a mackerel voyage, are subject

to general average. *Utpadel v. Fears*, 21 Law Rep. 478.

The bounty given to vessels employed in the cod fishery is a gratuity, and is given on the express condition that five-eighths of it shall go to the fishermen, who cannot waive their right to it, without the consent of the government. *The Lucy Anne*, 23 Law Rep. 548. See *United States v. Atkins*, Sprague 558.

## Florida.

### 1. Terms of the northern district.

#### I. DISTRICT COURTS.

22 June 1860 § 1.  
12 Stat. 84.

Terms of the northern district.

1. The regular terms of the district court of the United States for the northern district of Florida shall hereafter be held at Appalachiecola on the first Monday in March; at Tallahassee on the first Monday in May; at St. Augustine on the first Monday in June; and at Pensacola on the first Monday in July of each year; but nothing herein shall be construed to prevent the judge of the said court from holding additional terms at any of the places aforesaid whenever, in his opinion, the public interest may so require.

## Frauds.

1. Punishment of certain frauds by persons in the military or naval service. Parties to be subject to the articles of war, and to trial by court martial.

2. Liability to continue notwithstanding dismissal.

3. Punishment of like frauds by civilians.

4. Jurisdiction of the federal courts.

5. Duties of district attorneys.

6. Prosecutor to receive one-half of the forfeiture.

7. Limitation of suit.

8. Certain persons not to act as agents of the government.

9. Repealing and saving clauses.

2 March 1863 § 1.  
12 Stat. 690.

Punishment of certain frauds by persons in the military or naval service.

Presenting fictitious claims.

False vouchers.

False swearing.

Forgery.

Uttering.

Conspiracy to defraud.

1. Any person in the land or naval forces of the United States, or in the militia in actual service of the United States, in time of war, who shall make or cause to be made, or present or cause to be presented for payment or approval to or by any person or officer in the civil or military service of the United States, any claim upon or against the government of the United States, or any department or officer thereof, knowing such claim to be false, fictitious or fraudulent; any person in such forces or service who shall, for the purpose of obtaining, or aiding in obtaining, the approval or payment of such claim, make, use or cause to be made or used, any false bill, receipt, voucher, entry, roll, account, claim, statement, certificate, affidavit or deposition, knowing the same to contain any false or fraudulent statement or entry; any person in said forces or service who shall make or procure to be made, or knowingly advise the making of any false oath to any fact, statement or certificate, voucher or entry, for the purpose of obtaining, or of aiding to obtain, any approval or payment of any claim against the United States or any department or officer thereof; any person in said forces or service who, for the purpose of obtaining or enabling any other person to obtain from the government of the United States, or any department or officer thereof, any payment or allowance, or the approval or signature of any person in the military, naval or civil service of the United States, of or to any false, fraudulent or fictitious claim, shall forge or counterfeit, or cause or procure to be forged or counterfeited, any signature upon any bill, receipt, voucher, account, claim, roll, statement, affidavit or deposition; and any person in said forces or service who shall utter or use the same as true or genuine, knowing the same to have been forged or counterfeited; any person in said forces or service who shall enter into any agreement, combination or conspiracy to cheat or defraud the government of the United States, or any department or officer thereof, by obtaining, or aiding and assisting

- to obtain, the payment or allowance of any false or fraudulent claim; any person in said forces or service who shall steal, embezzle or knowingly and wilfully misappropriate or apply to his own use or benefit, or who shall wrongfully and knowingly sell, convey or dispose of any ordnance, arms, ammunition, clothing, subsistence stores, money or other property of the United States, furnished or to be used for the military or naval service of the United States; any contractor, agent, paymaster, quartermaster or other person whatsoever in said forces or service having charge, possession, custody or control of any money or other public property, used or to be used in the military or naval service of the United States, who shall, with intent to defraud the United States, or wilfully to conceal such money or other property, deliver or cause to be delivered to any other person having authority to receive the same any amount of such money or other public property less than that for which he shall receive a certificate or receipt; any person in said forces or service who is or shall be authorized to make or deliver any certificate, voucher or receipt, or other paper certifying the receipt of arms, ammunition, provisions, clothing or other public property so used or to be used, who shall make or deliver the same to any person without having full knowledge of the truth of the facts stated therein, and with intent to cheat, defraud or injure the United States; any person in said forces or service who shall knowingly purchase or receive, in pledge for any obligation or indebtedness, from any soldier, officer or other person called into or employed in said forces or service, any arms, equipments, ammunition, clothes or military stores, or other public property, such soldier, officer or other person not having the lawful right to pledge or sell the same; shall be deemed guilty of a criminal offence, and shall be subject to the rules and regulations made for the government of the military and naval forces of the United States, and of the militia when called into and employed in the actual service of the United States in time of war, and to the provisions of this act. And every person so offending may be arrested and held for trial by a court martial, and if found guilty, shall be punished by fine and imprisonment, or such other punishment as the court martial may adjudge, save the punishment of death.
2. Any person heretofore called or hereafter to be called into or employed in such forces or service, who shall commit any violation of this act and shall afterwards receive his discharge, or be dismissed from the service, shall, notwithstanding such discharge or dismissal, continue to be liable to be arrested and held for trial and sentence by a court martial, in the same manner and to the same extent as if he had not received such discharge or been dismissed.
3. Any person not in the military or naval forces of the United States, nor in the militia called into or actually employed in the service of the United States, who shall do or commit any of the acts prohibited by any of the foregoing provisions of this act, shall forfeit and pay to the United States the sum of two thousand dollars, and, in addition, double the amount of damages which the United States may have sustained by reason of the doing or committing such act, together with the costs of suit; and such forfeiture and damages shall be sued for in the same suit. And every such person shall, in addition thereto, on conviction in any court of competent jurisdiction, be punished by imprisonment not less than one, nor more than five years, or by fine of not less than one thousand dollars, and not more than five thousand dollars.
4. The several district courts of the United States, the circuit court of the District of Columbia, or any court therein to be established having general jurisdiction in civil cases, the several district courts of the territories of the United States, within whose jurisdictional limits the person doing or committing such act shall be found, shall, whosoever such act may have been done or committed, have full power and jurisdiction to hear, try and determine such suit. Such suit may be brought and carried on by any person, as well for himself as for the United States; the same shall be at the sole cost and charge of such person, and shall be in the name of the United States, but shall not be withdrawn or discontinued without the consent, in writing, of the judge of the court and the district attorney, first filed in the case, setting forth their reasons for such consent.
5. It shall be the duty of the several district attorneys of the United States for the respective districts, for the District of Columbia, and for the several territories, to be diligent in inquiring into any violation of the provisions of this act by persons liable to such suit, and found within their respective districts or territories, and to cause him or her to be proceeded against in due form of law for the recovery of such forfeiture and damages. And such person may be arrested and held to bail in such sum as the district judge may order, not exceeding the said sum of two thousand dollars, and twice the amount of the damages sworn to in the affidavit of the person bringing the suit.
6. The person bringing said suit and prosecuting it to final judgment shall be entitled to receive one-half the amount of such forfeiture, as well as one-half the amount

2 March 1863.

Embezzlement.

Concealment of public property.

False certificates

Purchasing arms

To be subject to the articles of war.

And tried by court martial.

Ibid. § 2.

Liability to continue notwithstanding dismissal.

Ibid. § 3.

Punishment of like frauds by civilians.

Ibid. § 4.

Jurisdiction of the federal courts.

Ibid. § 5.

Duties of district attorneys.

Ibid. § 6.

2 March 1863.  
Prosecutor to receive one-half of forfeiture.

of the damages he shall recover and collect; and the other half thereof shall belong to and be paid over to the United States; and such person shall be entitled to receive to his own use all costs the court may award against the defendant, to be allowed and taxed according to any provision of law or rule of court in force, or that shall be in force, in suits between private parties in said court: *Provided*, That such person shall be liable for all costs incurred by himself in the case, and shall have no claim therefor on the United States.

*Ibid.* § 7.

7. Every such suit shall be commenced within six years from the doing or committing the act, and not afterwards.

*Ibid.* § 8.

Certain persons not to act as agents for the government.

8. No officer or agent of any banking or other commercial corporation, and no member of any mercantile or trading firm, or person directly or indirectly interested in the pecuniary profits or contracts of such corporation or firm, shall be employed or shall act as an officer or agent of the United States for the transaction of business with such corporation or firm; and every such officer, agent, or member, or person, so interested, who shall so act, shall, upon conviction thereof, be punished by a fine of not more than two thousand dollars nor less than five hundred dollars, and by imprisonment for a term not exceeding two years.

*Ibid.* § 9.

Repealing and saving clauses.

9. All acts and parts of acts inconsistent with or repugnant to any of the provisions of this act are hereby repealed, saving, however, and excepting any and all suits or prosecutions now commenced pending, and all rights of suit or prosecution under any prior act of congress, on account of the doing or committing of any act hereby prohibited, and all rights and claims which the United States, or any person or persons, now have, growing out of such prior act; all which pending suits and prosecutions shall proceed and be determined, and all which rights and claims shall remain and be as valid and effectual as if this present act had not been passed; nor shall this act be so construed as in any way to impair or affect the obligation, duty or liability of any person who now is or shall hereafter become the surety of any person contracting with the United States, or any officer or agent thereof; but every such surety shall be liable and answerable for the default of his principal in the same manner as if this act had not been passed, save to the extent to which his principal has performed the contract, or, if damages have been so recovered, to the extent of one-half of the damages so recovered and paid; which last amount may be shown in reduction of damages in any suit brought against the principal and surety, or principals and sureties, on their contract.

## Fugitives from Justice.

It is not necessary that the affidavit on which a requisition issued should set forth the crime charged, with all the legal exactness necessary to be observed in an indictment. If it distinctly charge the commission of an offence, it is all that is necessary. *Manchester's Case*, 5 Cal. 237.

The governor issuing the requisition is the only proper judge of the authenticity of the affidavit. *Ibid.*

It is not necessary that the affidavit should state that the prisoner is a fugitive from justice—the allegation that he committed the crime, and then secretly fled, is sufficient to deduce the conclusion that he is a fugitive from justice. *Ibid.*

The governor's warrant authorizing the agent of another state to take and transport to the line of the state a fugitive from jus-

tice, is a conclusive justification to such agent for arresting such fugitive. *Commonwealth v. Hall*, 20 Law Rep. 651.

The clause in the constitution providing for the rendition of fugitives from justice, applies to all cases in which the accused is charged with an act punishable criminally by the laws of the state where it was committed. *Kentucky v. Ohio*, 24 How. 66.

The "duty" imposed by the act of 1793 (294, pl. 1) on the governor of the state in which a fugitive from justice is arrested, to deliver him up on the requisition of the executive of the state from which he fled, is the moral obligation of the state, to perform the compact contained in the constitution; it is not a duty that can be enforced by mandamus. *Ibid.*

## Fugitives from Labor.

A slave brought by his master into a free state, has a right to stay with his master, or not, at his election, and if he elect to remain with his master, no one can interfere with him. *Betty's Case*, 20 Law Rep. 456.

When a warrant is issued under the act 18 September 1850, by competent authority, it is sufficient to justify the arrest and detention of the fugitive, until discharged by due course of law; and any person concerned in rescuing or attempting to rescue such fugitive, out of the custody of the law, subjects himself to the penalties of the act. *United States v. Reed*, 2 Blatch. 437.

If a *habeas corpus* from a state court be served on a marshal, or other person, having a fugitive in custody, under the authority of the United States, he should, by a proper return, make known

the authority by which he holds the party; but, at the same time, it is his duty not to obey the state process, but to execute that of the United States. *Abelman v. Booth*, 21 How. 506.

The fugitive slave law of 1850, is constitutional in all its provisions. *Ibid.*

The district court has exclusive jurisdiction of offences under that act; and the validity of its proceedings and judgment cannot be re-examined and set aside by any other tribunal. *Ibid.*

One who obstructs the marshal in the execution of a warrant issued under the 9th section of the act 18 September 1850 (298, pl. 11) is liable to indictment, either under the 22d section of the act of 30th April 1790, or under the 7th section of the act of 18th September 1850. *United States v. Buck*, 8 Am. L. R. 640.

## Georgia.

1. Brunswick to be the port of entry. Port of Darien abolished. 2. Deputy collector at Darien.

1. The port of entry for the district of Brunswick, Georgia, shall be Brunswick, and that Darien shall be abolished as the port of entry. 20 June 1862 § 1. 12 Stat. 432.
2. There shall be a deputy collector appointed, according to law, to reside at Darien, and to exercise such powers as the secretary of the treasury, under the revenue laws, may prescribe. Ibid. § 2. Deputy collector at Darien.

## Habeas Corpus.

The federal courts have power to issue the writ of *habeas corpus* only when necessary in aid of their jurisdiction, in a case pending. *Ex parte Everts*, 7 Am. L. R. 79: overruling *United States v. Williamson*, 4 *Ibid.* 11.

The case of a father claiming the custody of an infant child, is not one in which a *habeas corpus* can issue, by a court of the United States, as ancillary to the exercise of its jurisdiction. *Ibid.* Nor can a circuit court issue such a writ, although the father be a citizen of another state, as the matter in dispute is incapable of a pecuniary estimation. *Ibid.*

A *habeas corpus* issued by a state court, has no authority within the limits of the sovereignty of the United States. If served on a marshal having a prisoner in custody, under authority of the United States, he should, by a proper return, make known the authority by which he holds him; but, at the same time, it is his duty, not to obey the state process, but to execute that of the United States. *Ableman v. Booth*, 21 *How.* 506.

The federal courts have power to apply the writ of *habeas corpus* to all cases which it would reach at common law; provided it be not issued to any person in jail, unless confined under and by color of the authority of the United States. *Ex parte Des Rochers*, 1 *McAllister* 68.

A state court, on a writ of *habeas corpus* issued at the relation of one committed on process from a federal court, cannot go behind the commitment and inquire into the grounds of it. *Williamson v. Lewis*, 18 *Leg. Int.* 172.

The privilege of the writ of *habeas corpus* can only be suspended by act of congress. *Ex parte Merryman*, 24 *Law Rep.* 78. 9 Am. L. R. 524. *Jones v. Seward*, Sup. Court, N. Y., 19 Oct. 1863. *Clerke, J.* But see *McQuillan's Case*, 9 *Pittsburgh Leg. J.* 27. 24 *Law Rep.* 129.

The federal judges have exclusive jurisdiction on *habeas corpus*, whenever the applicant is illegally restrained of his liberty, under or by color of the authority of the United States, whether by virtue of a formal commitment or otherwise. *Ex parte McDonald*, 9 Am. L. R. 662.

Much diversity of opinion appears to exist, as to the power of the state courts to discharge on *habeas corpus*, a person illegally held in the military service of the United States. Some judges

hold that the state courts have jurisdiction to discharge one enlisted contrary to the acts of congress. *Wilson's Case*, 18 *Leg. Int.* 316; *Dobb's Case*, 9 Am. L. R. 555; *Commonwealth v. Carter*, 20 *Leg. Int.* 21; *Henderson's Case*, *Ibid.* 181; *Webb's Case*, 10 *Pittsburgh Leg. J.* 106; *contra*, *Phelan's Case*, 9 *Abbott* 286. And in *Carney's Case*, Chief Justice Lowrie discharged a person from military arrest, who, after having been exempted from the conscription, by the board of enrolment, was arrested on the pretext that they had reconsidered their decision. 14 August 1863. *MS.* On the contrary, it has been held, that the state courts have no jurisdiction to inquire into the validity of the draft on *habeas corpus*. *Spangler's Case*, 11 Am. L. R. 596. *Jordan's Case*, *Ibid.* 749. And that they have no power to discharge from the custody of the provost-marshal, one held for desertion, though enlisted contrary to law. *Shirk's Case*, 20 *Leg. Int.* 260. This, however, was said by Leonard, J., in the supreme court of New York, to be founded on a misconception of the case of *Ableman v. Booth*, and Barrett, having been illegally enlisted, was discharged, notwithstanding a charge of desertion. *Barrett's Case*, August 1863. *MS.* See also *Follie's Case*, 19 *Leg. Int.* 276. *United States v. Wright*, 20 *Leg. Int.* 21. *McCall's Case*, *Ibid.* 108. *Commonwealth v. Rogers*, 10 *Pittsburgh Leg. J.* 178. *Stevens's Case*, 24 *Law Rep.* 203. *Ex parte McDonald*, 9 Am. L. R. 662. *United States v. Taylor*, 20 *Leg. Int.* 284. In re *Hicks* and *Archibald*, 11 *Pittsburgh Leg. J.* 26. *Com. v. Wright*, *Ibid.* 41.

In *Vallandigham's Case*, Judge Leavitt refused an application for a writ of *habeas corpus*, on the ground that the imprisonment was under military authority, and that, although a civilian, he was held for trial, before a military commission, for disloyal practices; the country being engaged in war, and the military necessities requiring that the power to arrest parties, under such circumstances, should be exercised by the president, as commander-in-chief. *Vallandigham's Trial* 259.

Where a prisoner is held on original federal (not judicial) process, the state courts have concurrent jurisdiction with those of the United States, to inquire into the legality of the detention on *habeas corpus*. *Bresler's Case*, 3 *Leg. Ols.* 324. Citing 10 *Johns.* 323. 7 *Cow.* 471. 5 *Hill* 16. 2 *South* 555. 12 *N. H.* 194. 11 *Mass.* 63. 24 *Pick.* 267. 7 *Cush.* 285. 7 *Barr* 336.

## Hospitals.

### I. INSANE ASYLUM.

- Insane from army, navy, and revenue service to be received.
- How insane paupers to be admitted.
- Proceedings where insane persons are possessed of property.

### II. MILITARY ASYLUM.

- Commissioners. Their duties.
- Benefits extended to all invalid and disabled soldiers.

### I. INSANE ASYLUM.

1. That section four of the act of March the 3d 1855, (a) entitled an "Act to organize an institution for the insane of the army and navy, and of the District of Columbia in the said District," be and the same is hereby amended so as to read as follows:

"The order of the secretary of war and that of the secretary of the navy, and that of the secretary of the treasury shall authorize the superintendent to receive insane persons belonging to the army and navy and revenue cutter service respectively, and keep them in custody until they are cured or removed by the same authority which ordered their reception."

2. That, as a substitute for the second section of the supplementary act aforesaid, (b) which is hereby repealed, the secretary of the interior shall have power to grant his order for the admission into the government hospital for the insane of any insane person not charged with a breach of the peace, upon (1) the certificate of any judge of the circuit or criminal court for the District of Columbia, or of any justice of the peace of the district, stating that two respectable physicians, resident of the district, appeared before said judge or justice and certified under oath and under their hands, that they knew the person alleged to be insane, and that, from personal examination, they believed him or her to be insane and a fit subject for treatment in said hospital, and that

- Pensioners to surrender their pensions whilst inmates.
- Deductions from pay reduced. Name changed to "Soldier's Home. To be subject to articles of war.
- Act of 1851 partially repealed.

### III. MARINE HOSPITALS.

- Marine hospitals may be rented to municipal authorities.

1 June 1860 § 1. 12 Stat. 23.

Insane from army, navy, and revenue service to be received.

28 Feb. 1861 § 1. 12 Stat. 177.

How insane paupers may be admitted.

(a) Ante 307, pl. 33.

(b) Act 7 February 1857, ante 308, pl. 38.

28 Feb. 1861.

lie or she was a resident of the district at the time he or she was seized with the mental disorder under which he or she then labored; also stating that two respectable householders, residents of the district, appeared before him, the said judge or justice, and certified under oath, and under their hands, that they knew the person alleged to be insane, and that, from a personal examination into his or her affairs, they believe him or her to be unable to support himself or herself and family (or himself or herself, if he or she have no family), under the visitation of insanity, and to pay his or her board and other expenses in said hospital, and the certificate under oath of such physicians and of such householders shall accompany the certificate of such judge or justice; and (2) upon an application requesting that such order may be issued, made in writing, within five days after the date of the affidavits aforesaid, by a member of the board of visitors of said hospital, upon an inspection of said affidavits and certificate thereto, and it will be the duty of said visitor to withhold his application if he has reason to doubt the indigence of the party in whose behalf the application is desired, till such doubt is removed by testimony satisfactory to said visitor.

Ibid. § 2.

Proceedings where insane persons are possessed of property.

3. If it shall appear in the case of any insane person, whose insanity commenced while he or she was a resident of the District of Columbia, that he or she is able to defray a portion, but not the whole, of the expenses of his or her support and treatment in the government hospital for the insane, then the board of visitors of the said hospital is authorized to inquire into the facts of the case; and if it shall appear to said board, upon such inquiry, that such insane person has property and no family, or more property than is required for the support of his or her family, then, as a condition upon which such insane person, admitted or to be admitted upon the order of the secretary of the interior, shall receive or continue to receive the benefits of said hospital, there shall be paid to the superintendent, from the income, property or estate of such insane person, such portion of his expenses in said hospital, as a majority of the said board shall determine to be just and reasonable, under all the circumstances.

## II. MILITARY ASYLUM.

3 March 1860 § 4.  
11 Stat. 434.

Commissioners.

Their duties.

4. That the second section of the act of 3d March 1851, (a) entitled "An act to found a military asylum for the relief and support of invalid and disabled soldiers of the army of the United States," be so amended as to reduce the number of commissioners authorized by that section to three, and to consist of the commissary-general of subsistence, the surgeon-general and the adjutant-general, (any two of whom shall be a quorum for the transaction of business), whose duty it shall be to examine and audit the accounts of the treasurer quarter-yearly, and to visit and inspect the military asylum at least once in every month.

Ibid. § 5.

Benefits extended to all invalid and disabled soldiers.

5. That the benefits of the said act be, and they are hereby extended so as to include the invalid and disabled soldiers, whether regulars or volunteers, of the war of 1812, and of all subsequent wars; and that so much of the act of 3d March 1851, as is inconsistent herewith, be and the same is hereby repealed.

Ibid. § 6.

Pensioners to surrender their pensions whilst inmates.

6. All pensioners on account of wounds or disability incurred in the military service, shall transfer and surrender their pensions to the institution for and during the time they may remain therein and voluntarily continue to receive its benefits.

Ibid. § 7.

Deductions from pay reduced. Name changed.

7. That the deductions of twenty-five cents per month, from the pay of the non-commissioned officers, musicians, artificers and privates in the army shall be reduced, from and after the thirtieth of June next, to twelve and a half cents per month; and that the title of the act be, and the same is hereby, changed from the "Military Asylum" to that of "Soldier's Home." *And provided further*, That all persons now in, or that may hereafter be admitted into, the institution, shall be and are hereby made subject to the rules and articles of war, and will be governed thereby in the same manner as soldiers in the army.

5 July 1862 § 2.  
12 Stat. 608.

Act of 1851 partially repealed.

8. That so much of the 7th section of the act approved 3d March 1851, (b) entitled "An act to found a military asylum for the relief and support of invalid and disabled soldiers of the army of the United States," as requires that "all moneys, not exceeding two-thirds of the balance on hand, of the hospital fund, and of the post fund of each military station, after deducting the necessary expenses," shall be set apart for the support of the military asylum, be and the same is hereby repealed.

## III. MARINE HOSPITALS.

1 March 1862 § 1.  
12 Stat. 848.

Marine hospitals may be rented to municipal authorities.

9. The secretary of the treasury is hereby authorized to rent either of the several marine hospitals to the proper authorities of the cities, towns or counties in which said hospitals are located, and contract with such authorities for the relief of the sick and disabled seamen entitled to relief under the act of 3d of May 1802, (c) and in cases of infectious diseases to make such regulations for their relief as he deems expedient.

(a) Ante 306, pl. 22.

(b) Ante 306, pl. 27.

(c) Ante 301-5, pl. 9-13.

# Idaho.

## I. TERRITORIAL GOVERNMENT.

1. Territory of Idaho. Boundaries. May be divided or attached to other territories or states. Indian rights not to be impaired. Or authority of the general government to treat with them affected.

## II. EXECUTIVE AUTHORITY.

2. Governor. Term of office. Residence. His powers and duties.

3. Secretary. His powers and duties. When to act as governor.

## III. LEGISLATIVE POWER.

4. Constitution of the legislative assembly. Council. House of representatives. Apportionment. Residence. Census. First election. New election in case of vacancy, &c. Subsequent elections. Duration of sessions.

5. Qualifications of voters.

6. Extent of legislative power. Veto power. Slavery prohibited.

7. Appointment of township, district and county officers.

8. Exclusion of members from office.

## IV. JUDICIARY.

9. Supreme court. District courts. Jurisdiction. Justices of the peace. Clerks of district courts. Errors and appeals. Clerks of supreme court. Jurisdiction of supreme court of the United States. Federal jurisdiction. What causes to have precedence. Fees of clerks.

10. District attorney. Marshal.

11. Judicial districts.

## V. MISCELLANEOUS PROVISIONS.

12. Appointment of territorial officers. Oath of office. Salaries. Compensation of members of assembly. Annual sessions. Extra sessions. Appropriation for contingent expenses.

13. Seat of government.

14. Delegate to congress. Laws of the United States extended to Idaho.

15. School lands to be reserved.

16. Security, how given, by officers.

17. Indian rights to be observed. Indian agents, &c.

## I. TERRITORIAL GOVERNMENT.

1. That all that part of the territory of the United States included within the following limits, to wit: Beginning at a point in the middle channel of the Snake river where the northern boundary of Oregon intersects the same; then follow down said channel of Snake river to a point opposite the mouth of the Kooskooskia, or Clear Water river; thence due north to the forty-ninth parallel of latitude; thence east along said parallel to the twenty-seventh degree of longitude west of Washington; thence south along said degree of longitude to the northern boundary of Colorado territory; thence west along said boundary to the thirty-third degree of longitude west of Washington; thence north along said degree to the forty-second parallel of latitude; thence west along said parallel to the eastern boundary of the state of Oregon; thence north along said boundary to place of beginning. And the same is hereby created into a temporary government, by the name of the territory of Idaho: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries, in such manner and at such time as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory, but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Idaho, until said tribe shall signify their assent to the president of the United States to be included within said territory; or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property or other rights, by treaty, law or otherwise, which it would have been competent for the government to make if this act had never passed.

3 March 1863 §  
12 Stat. 808.

Territory of  
Idaho.  
Boundaries.

May be divided  
or attached to  
other territories  
or states.

Indian rights not  
to be impaired.

Or authority of  
the general gov-  
ernment to treat  
with them affect-  
ed.

## II. EXECUTIVE AUTHORITY.

2. The executive power and authority in and over said territory of Idaho shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory, and shall be commander-in-chief of the militia, and superintendent of Indian affairs thereof. He may grant pardons and respites for offences against the laws of said territory, and relieve for offences against the laws of the United States, until the decision of the president of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said territory, and shall take care that the laws be faithfully executed.

3 March 1863 § 2.  
12 Stat. 809.

Governor.  
Term of office.  
Residence.  
His powers, &c.

3. There shall be a secretary of said territory, who shall reside therein, and shall hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to

Ibid. § 3.

Secretary.

His powers and  
duties.

3 March 1863.

When to act as  
governor.

the president of the senate and to the speaker of the house of representatives for the use of congress; and in case of the death, removal, resignation or absence of the governor from the territory, the secretary shall be and he is hereby authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

## III. LEGISLATIVE POWER.

3 March 1863 § 4.  
12 Stat. 809.Constitution of  
the legislative  
assembly.  
Council.  
House of repre-  
sentatives.

Apportionment.

Residence.

Census.

First election.

New election in  
case of vacancy,  
&cSubsequent elec-  
tions.Duration of ses-  
sions.

Ibid. § 5.

Qualifications of  
voters.

Ibid. § 6.

Extent of legisla-  
tive power.

Veto power.

4. The legislative power and authority of said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made as nearly equal as practicable among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of the district or county or counties, for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken, by such persons and in such mode as the governor shall designate and appoint, and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes, in each of said council districts, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

5. Every free white male inhabitant above the age of twenty-one years, who shall have been an actual resident of said territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

6. The legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor, within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law in like

manner as if he had signed it, unless the assembly, by adjournment, prevent its return; in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June 19th 1862, nothing herein contained shall be construed to authorize or permit its existence therein.

3 March 1863.

Slavery prohibited.

7. All township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Idaho. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

Ibid. § 7.

Appointment of township, district and county officers.

8. No member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said territory.

Ibid. § 8.

Exclusion of members from office.

## IV. JUDICIARY.

9. The judicial power of said territory shall be vested in a supreme court, district courts, probate courts and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy, when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of *habeas corpus* involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory, the same as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of Washington territory now receive for similar services.

3 March 1863 § 9.  
12 Stat. 811.

Supreme court.

District courts.

Jurisdiction.

Justices of the peace.

Clerks of district courts.

Errors and appeals.

Clerk of supreme court.

Jurisdiction of supreme court of United States.

Federal jurisdiction.

What causes to have precedence.

Fees of clerk.

Ibid. § 10.

District attorney

Marshal.

10. There shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for



3 March 1863.

four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties and be entitled to the same fees as the marshal of the district court of the United States for the present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

Ibid. § 15.

Judicial districts.

11. Until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

#### V. MISCELLANEOUS PROVISIONS.

3 Mar. 1863 § 11.  
12 Stat. 812.

Appointment of  
territorial offi-  
cers.

Oath of office.

12. The governor, secretary, chief justice and associate justices, attorney and marshal, shall be appointed by the president of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively, take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand five hundred dollars, the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars, the secretary shall receive an annual salary of two thousand dollars; the said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles' travel in going to and returning from said sessions, estimated according to the nearest usually travelled route, and an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms and doorkeeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless, on an extraordinary occasion, the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum to be expended by the governor to defray the contingent expenses of the territory, including the salary of the clerk of the executive department; and there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws and other incidental expenses; and the governor and secretary of the territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall, semi-annually, account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

Salaries.

Compensation of  
members of as-  
sembly, &c.

Annual sessions.

Extra sessions.

Appropriation  
for contingent  
expenses.

Ibid. § 12.

13. The legislative assembly of the territory of Idaho shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct;

and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed, except by an act of the said assembly duly passed, and which shall be approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

3 March 1863.  
Seat of govern-  
ment.

14. A delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections the times, places and manner of holding the elections shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. The constitution and all laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said territory of Idaho as elsewhere within the United States.

Ibid. § 13.  
Delegate to con-  
gress.

15. When the lands in the said territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six, in each township in said territory, shall be and the same are hereby reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

Laws of the Uni-  
ted States ex-  
tended to Idaho.

Ibid. § 14.  
School lands to  
be reserved.

16. All officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the territory of Idaho, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

Ibid. § 16.  
Security, how  
given by officers.

17. All treaties, laws and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

Ibid. § 17.  
Indian rights to  
be observed.  
Indian agents,  
&c.

## Illinois.

### 1. Southern district enlarged.

#### I. CIRCUIT AND DISTRICT COURTS.

1. That the counties of Hancock and McDonough, in the state of Illinois, be and the same are hereby detached from the northern district of Illinois, and the same are hereby attached to the southern district of Illinois, and said counties shall hereafter constitute a part of said southern district of Illinois, the same as if said counties had originally belonged to said southern district.(a)

11 July 1862 § 1.  
12 Stat. 536.  
Southern district  
enlarged.

(a) The remainder of this act provides for the transfer of pending causes, the service of process, and the execution of judgments in causes not transferred.

# Imports and Exports.

## I. OFFICERS OF THE CUSTOMS.

1. Limitation of compensation.
2. Special agents in insurrectionary districts. Compensation.
3. Certain collectors to render monthly accounts, and estimates of incidental expenses.
4. Compensation of agents in insurrectionary districts.

## II. ENTRY AND DEPARTURE OF VESSELS.

5. When ports of delivery may be discontinued.
6. Oath of allegiance to be administered to masters, on clearing.
7. By whom administered. Violation to be deemed perjury.
8. Certain ports of delivery abolished.
9. Masters of coasting vessels on the northern frontier to file manifests. To report at other ports. Penalty for neglect.
10. Blank manifests and clearances to be furnished.

## III. DUTIES ON IMPORTS.

11. Tariff of duties.
12. Brandy, spirits and cordials. Wines. Liquors in bottles.
13. Malt liquors. Other spirituous liquors.
14. Bar-iron. Slabs, blooms, &c. Railroad iron. Boiler plates. Iron wire. Rolled or hammered iron. Pig iron. Cast iron. Hollow-ware. Scrap iron. Band, hoop, and rod iron. Wrought iron. Malleable iron. Sheet iron. Plate iron. Machinery. Screws. Manufactured iron. Steel. Steel wire. Manufactured steel. Coal. Coke.
15. Lead and pewter. Copper, zinc, and spelter.
16. Sugar of lead, &c. Earthen, &c. Oils.
17. Salt. Vinegar. Pickled fish. Provisions. Grain.
18. Dried fruit and nuts.
19. Wool and hair. Sheep skins.
20. Carpets. Mats, rugs, &c. Manufactures of wool. Yarn. Clothing. Blankets. Delaines. Bunting, &c. Oil cloth.
21. Manufactures of cotton, unbleached, &c. Plain woven cotton goods. Cotton thread. Shirts and drawers. Other manufactures of cotton. Manufactures of flax, jute or hemp.
22. Hemp and cordage. Cotton bagging. Sheetings. Other manufactures of hemp, &c.
23. Glass, and manufactures of glass.
24. Watches and watch materials.
25. Articles chargeable with a duty of ten per cent. ad valorem.
26. Articles chargeable with a duty of twenty per cent. ad valorem.
27. Copper ore. Gems. Hair cloth, &c.
28. Articles chargeable with a duty of thirty per cent. ad valorem.
29. Articles free from duty.
30. Non-enumerated articles.
31. What to be deemed a ton.
32. Old railroad iron may be imported under bond, to be re-manufactured and exported.
33. Market value to be estimated on the day of shipment.
34. Drawback on foreign hemp, manufactured and exported.
35. Existing laws to apply to collection of duties under this act.
36. Assessment where goods of different values are in the same invoice.
37. Duties on goods on shipboard, and in the public warehouses.
38. Increase of certain specific duties. Chocolate, Fruit. Hemp. Lead. Salt. Spirits.
39. Ad valorem duties. Fruits. Leather, &c. India rubber. Ivory. Silks.
40. Articles imported in foreign vessels.
41. Drawback.
42. Goods on shipboard and in store.
43. Repealing section.
44. Increased duties on tea and coffee.
45. Increased tariff. Sugar. Confectionery. Molasses. Cigars. Snuff. Tobacco.

46. Spirituous liquors.
47. Iron and steel. Coal and coke.
48. Copper. Zinc, &c. Lead. Brass.
49. Specific duties on certain articles.
50. Additional ad valorem duties of ten per cent.
51. Additional specific duties.
52. Tariff of ad valorem and specific duties on certain articles.
53. Additional duties on carpets, woollen goods, clothing, blankets, delaines, worsted goods, oil cloth, and matting.
54. Additional duties on cotton and linen goods.
55. Additional duties on jute, &c., cordage, yarn, cotton bagging, flax and hemp.
56. Specific and ad valorem duties on certain articles.
57. Additional ad valorem duties of five per cent.
58. Additional duties on certain imports.
59. What duties to be paid on goods in the public stores.
60. Foreign vessels of war may purchase from warehouses free of duty.
61. Repeal of inconsistent laws.
62. Duty on printing paper; seedlac; and polishing powders.
63. Crude petroleum.

## IV. ENTRY OF GOODS IMPORTED.

64. Allowance for tare, how estimated.
65. Duties of consuls.
66. Entry of goods imported from Canada.
67. Fees for such entry.
68. Invoices to be in triplicate. To be indorsed by consul. How triplicate invoices to be disposed of. No goods to be admitted to entry without such certified invoice. Penalty for making entry by means of false invoices, &c. When entry may be made by giving bond. Powers of the secretary. Remission of forfeitures.

## V. LANDING, INSPECTION AND DELIVERY.

69. When collector to take possession of goods remaining on board.

## VI. WAREHOUSING.

70. When additional duty to be levied.

## VII. DRAWBACK.

71. Drawback on gunpowder.

## VIII. COLLECTION OF DUTIES.

72. In case of obstruction at port of entry, duties may be collected at any port of delivery. Officers at such ports.
73. In certain cases, custom-houses may be established at any place on land or on shipboard. Duties of collector. Vessel may proceed to unobstructed port. Regulations to be established.
74. Protection of officers. Army and navy may be employed.
75. Ports may be closed by proclamation. Penalty for entering or attempting to enter such ports.
76. Navy may be used to enforce the revenue laws.
77. Secretary may remit forfeitures and penalties.
78. Jurisdiction of the federal courts.

## IX. FRAUDS ON THE REVENUE.

79. Duties of solicitor of the treasury. Collectors to report seizures. Clerks.
80. Penalty for making entry by false representations.
81. Penalty for admitting fraudulent entries. For accepting fees, &c.
82. When goods may be released on payment of value.
83. Penalty for offering gratuities to officers.
84. Seizure of books and papers.
85. Penalty for wilful concealment or destruction of books and papers.

## I. OFFICERS OF THE CUSTOMS.

- 14 June 1858 § 6.  
11 Stat. 337.  
Limitation of compensation.
- 14 July 1862 § 5.  
12 Stat. 572.  
Special agents in insurrectionary districts.
- Compensation.
- 3 March 1863 § 1.  
12 Stat. 700.  
3. The collector of customs of each of the districts aforesaid (a) shall render, with his accounts of the expenses incident to his office, a list of the clerks and other officers of (a) That is, the districts on the northern, north-eastern, and north-western frontiers.

the customs employed by him, stating the rate of compensation allowed to each, the duties they severally perform, and also an account of the sums paid for stationery, fuel and all other office expenses, including office rent; for all of which expenses he shall submit an estimate each month in advance, and shall state the purposes for which any premises are used; and shall also render an accurate account of all fees and commissions collected by him.

8 March 1863.

Certain collectors to render monthly accounts and estimates of incidental expenses.

4. The fifth section of the "Act to further provide for the collection of the revenue upon the northern, north-eastern and north-western frontier, and for other purposes," approved July 14th 1862, shall be so construed as to allow the temporary officers which have been or may be appointed, at ports which have been or may be opened or established in states declared to be in insurrection, by the proclamation of the president on the 1st of July 1862, the same compensation which by law is allowed to permanent officers of the same position, or the ordinary compensation of special agents, as the secretary of the treasury may determine.

8 March 1863 § 5.  
12 Stat. 821.

Compensation of agents in insurrectionary districts.

## II. ENTRY AND DEPARTURE OF VESSELS.

5. That the secretary of the treasury be and he is hereby authorized, at his discretion, to discontinue all ports of delivery, the revenue received at each of which does not amount to the sum of ten thousand dollars.

14 June 1858 § 4.  
11 Stat. 337.

6. It shall be the duty of the several collectors of the customs at the ports of entry within the United States, during the continuance of the present rebellion, to cause to be administered to each and every master of any American ship or vessel, steamship or steam-vessel, which shall be about to clear for any foreign port or place, or for any port or place within the United States, the oath of allegiance required by chapter 64 of the acts of the year 1861; (a) which oath shall be duly taken by such masters before such vessels shall be permitted to clear as aforesaid.

6 March 1862 § 1.  
12 Stat. 384.

Oath of allegiance to be administered to masters on clearing:

7. The oath or affirmation aforesaid may be taken before the collector of customs at the port from which such vessel is about to clear, or before any justice of the peace or notary public, or other person who is legally authorized to administer an oath, in the state or district where the same may be administered. And that any violation of such oath shall subject the offender to all the pains and penalties of wilful and corrupt perjury, who shall be liable to be indicted and prosecuted to conviction for any such offence, before any court having competent jurisdiction thereof.

Ibid. § 2.

By whom administered.

Violation to be deemed perjury.

8. That the several laws constituting Hannibal, in the state of Missouri, Hickman and Columbus, in the state of Kentucky, Chattanooga and Knoxville, in the state of Tennessee, and Tusculum, in the state of Alabama, and Shreveport, in the state of Louisiana, ports of delivery, be and the same are hereby repealed.

11 July 1862 § 1.  
12 Stat. 537.

Certain ports of delivery abolished.

9. From and after the first day of October next, the master or manager of every vessel which is enrolled or licensed for carrying on the coasting trade on the northern, north-eastern and north-western frontiers of the United States shall, before the departure of his vessel from any port, file a manifest of his cargo with the collector and obtain a clearance; and if said vessel shall touch at any of the ports of the United States, and there receive on board any goods, wares or merchandise, or discharge any portion of her cargo, the master or manager shall report to the collector such arrival and produce his manifest, and it shall be the duty of the collector to indorse thereon, certified by himself, a description of the goods, wares or merchandise so taken on board or unladen, and return the same to the master or manager, who shall deliver to the collector of the port at which the unloading of the cargo is completed the manifest, to be placed on file in his office. And the owner or owners of every vessel whose master or manager shall neglect to comply with the provisions of this section, shall forfeit and pay to the United States the sum of twenty dollars for each and every offence, one-half for the use of the informer and for which sum the vessel shall be liable, and may be seized and proceeded against summarily, by way of libel, in any district court of the United States having jurisdiction of the offence.

14 July 1862 § 1.  
12 Stat. 571.

Master of coasting vessels on the northern frontier, to file manifests.

To report at other ports.

Penalty for neglect.

10. Collectors and surveyors of the collection districts on the said frontiers are authorized to keep on sale, at their several offices, blank manifests and clearances required for the business of their districts, and to charge the sum of ten cents and no more for each blank which shall be prepared and executed by them.

Ibid. § 2.

Blank manifests and clearances to be furnished.

## III. DUTIES ON IMPORTS.

11. From and after the first day of April, Anno Domini 1861, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:—

2 March 1861 § 5.  
12 Stat. 179.

Tariff of duties.

(a) Tit. "Departments," 2.

2 March 1861.

Brandy, spirits  
and cordials.

Wines.

Liquors in bot-  
tles.

Malt liquors.

Other spirituous  
liquors.

Ibid. § 7.

Bar iron.

Slabs blooms &amp;c.

Railroad iron.

Boiler plates.  
Iron wire.Rolled or ham-  
mered iron.

Pig iron.

Cast iron.

Hollow-ware.

Scrap iron.

Band, hoop and  
rod iron.

Wrought iron.

Malleable iron.

12. On brandy, for first-proof, one dollar per gallon; on other spirits manufactured or distilled from grain, for first-proof, forty cents per gallon; on spirits from other materials, for first-proof, forty cents per gallon; on cordials and liqueurs of all kinds, fifty cents per gallon; on arrack, absynthe, kirschenwasser, ratafia and other similar spirituous beverages not otherwise provided for, fifty cents per gallon; on bay rum, twenty-five cents per gallon: *Provided*, That the duty upon brandy, spirits, and all other spirituous beverages herein enumerated, shall be collected upon the basis of first-proof, and so in proportion for any greater strength than the strength of first-proof; on wines of all kinds, forty per centum ad valorem: *Provided*, That all imitations of brandy or spirits, or of any of the said wines, and all wines imported by any names whatever, shall be subject to the duty provided for the genuine article which it is intended to represent: *Provided also*, That no lower rate or amount of duty shall be levied, collected and paid on brandy, spirits, and all other spirituous beverages, than that now fixed by law for the description of first-proof, but shall be increased in proportion for any greater strength than the strength of first-proof: (a) *Provided further*, That brandies or other spirituous liquors may be imported in bottles, when the package shall contain not less than one dozen, and all bottles shall pay a separate duty, according to the rate established by this act, whether containing wines, brandies or other spirituous liquors, subject to duty as hereinbefore mentioned; on ale, porter and beer, in bottles, twenty-five cents per gallon; otherwise than in bottles, fifteen cents per gallon; on all spirituous liquors not enumerated, thirty-three and one-third per centum ad valorem.

13. There shall be levied, collected and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say:—

I. On bar iron, rolled or hammered, comprising flats not less than one inch or more than seven inches wide, nor less than one-quarter of an inch or more than two inches thick; rounds, not less than one-half an inch or more than four inches in diameter; and squares not less than one-half an inch or more than four inches square, fifteen dollars per ton: *Provided*, That all iron in slabs, blooms, loops or other forms, less finished than iron in bars, and more advanced than pig iron, except castings, shall be rated as iron in bars, and pay a duty accordingly: *And provided further*, That none of the above iron shall pay a less rate of duty than twenty per centum ad valorem; on all iron imported in bars for railroads or inclined planes, made to patterns and fitted to be laid down upon such roads or planes, without further manufacture, and not exceeding six inches high, twelve dollars per ton; on boiler plate iron, twenty dollars per ton; on iron wire drawn and finished, not more than one-fourth of an inch in diameter nor less than number sixteen wire gauge, seventy-five cents per one hundred pounds, and fifteen per centum ad valorem; over number sixteen and not over number twenty-five wire gauge, one dollar and fifty cents per one hundred pounds, and in addition fifteen per centum ad valorem; over or finer than number twenty-five wire gauge, two dollars per one hundred pounds, and in addition fifteen per centum ad valorem; on all other descriptions of rolled or hammered iron, not otherwise provided for, twenty dollars per ton.

II. On iron in pigs, six dollars per ton; on vessels of cast iron not otherwise provided for, and on sad-irons, tailors' and hatters' irons, stoves and stove-plates, one cent per pound; on cast iron steam, gas and water pipe, fifty cents per one hundred pounds; on cast-iron butts and hinges, two cents per pound; on hollow-ware, glazed or tinned, two cents and a half per pound; on all other castings of iron not otherwise provided for, twenty-five per centum ad valorem.

III. On old scrap iron, (b) six dollars per ton: *Provided*, That nothing shall be deemed old iron that has not been in actual use and fit only to be remanufactured.

IV. On band and hoop iron, slit rods not otherwise provided for, twenty dollars per ton; on cut nails and spikes, one cent per pound; on iron cables or chains, or parts thereof, and anvils, one dollar and twenty-five cents per one hundred pounds; on anchors or parts thereof, one dollar and fifty cents per one hundred pounds; on wrought board nails, spikes, rivets and bolts, two cents per pound; on bed screws and wrought hinges, one cent and a half per pound; on chains, trace chains, halter chains and fence chains made of wire or rods, one-half of one inch in diameter or over, one cent and a half per pound; under one-half of one inch in diameter, and not under one-fourth of one inch in diameter, two cents per pound; under one-fourth of one inch in diameter, and not under number nine wire gauge, two cents and a half per pound; under number nine wire gauge, twenty-five per centum ad valorem; on blacksmiths' hammers and sledges, axles or parts thereof, and malleable iron in castings not otherwise provided for, two cents per pound; on horse-shoe nails, three cents and a half per pound; on steam,

(a) Act 5 August 1861, § 6. 12 Stat. 294.

(b) This embraces damaged American machinery, unfit for use until remanufactured. Dec. Dep. 20 April 1868.

gas and water tubes and flues of wrought iron, two cents per pound; on wrought iron railroad chairs and on wrought iron nuts and washers, ready punched, twenty-five dollars per ton; on cut tacks, brads and sprigs not exceeding sixteen ounces to the thousand, two cents per thousand; exceeding sixteen ounces to the thousand, two cents per pound. 2 March 1861.

V. On smooth or polished sheet iron by whatever name designated, two cents per pound; on other sheet iron, common or black, not thinner than number twenty wire gauge, twenty dollars per ton; thinner than number twenty and not thinner than number twenty-five wire gauge, twenty-five dollars per ton; thinner than number twenty-five wire gauge, thirty dollars per ton; on tin plates galvanized, galvanized iron, or iron coated with zinc, two cents per pound; on mill irons and mill cranks of wrought iron, and wrought iron for ships, locomotives, locomotive tire, or parts thereof, and steam engines, or parts thereof, weighing each twenty-five pounds or more, one cent and a half per pound; on screws commonly called wood screws, two inches or over in length, five cents per pound; less than two inches in length, eight cents per pound; on screws of any other metal than iron, (a) thirty per centum ad valorem; on all manufactures of iron not otherwise provided for, thirty per centum ad valorem. (b)

Sheet iron.  
Plate iron.  
Machinery.  
Screws.  
Manufactured iron.

VI. On all steel in ingots, bars, sheets or wire not less than one-fourth of one inch in diameter, valued at seven cents per pound or less, one and a half cent per pound; valued at above seven cents per pound and not above eleven cents per pound, two cents per pound; steel in any form not otherwise provided for, (c) shall pay a duty of twenty per centum ad valorem; on steel wire less than one-fourth of an inch in diameter, and not less than number sixteen wire gauge, two dollars per one hundred pounds, and in addition thereto fifteen per centum ad valorem; less or finer than number sixteen wire gauge, two dollars and fifty cents per one hundred pounds, and in addition thereto fifteen per centum ad valorem; on cross-cut saws, eight cents per lineal foot; on mill, pit and drag saws, not over nine inches wide, twelve and a half cents per lineal foot; over nine inches wide, twenty cents per lineal foot; on skates costing twenty cents or less per pair, six cents per pair; on those costing over twenty cents per pair, thirty per centum ad valorem; on all manufactures of steel, or of which steel shall be a component part, not otherwise provided for, thirty per centum ad valorem: *Provided*, That all articles partially manufactured, not otherwise provided for, shall pay the same rate of duty as if wholly manufactured.

Steel.  
Steel wire.  
Manufactured steel.

VII. On bituminous coal, one dollar per ton of twenty-eight bushels, eighty pounds to the bushel; on all other coal, fifty cents per ton of twenty-eight bushels, eighty pounds to the bushel; on coke and culm of coal, twenty-five per centum ad valorem.

Coal.  
Coke.

14. There shall be levied, collected and paid, on the importation of the articles hereinafter mentioned, the following duties, that is to say:

Ibid. § 9.

I. On lead in pigs and bars, one cent per pound; on old scrap lead fit only to be remanufactured, one cent per pound; on lead in sheets, pipes or shot, one cent and a half per pound; on pewter when old and fit only to be remanufactured, one cent per pound.

Lead and pewter.

II. On copper in pigs, bars or ingots, two cents per pound; on copper when old and fit only to be remanufactured, one cent and a half per pound; on sheathing copper, in sheets forty-eight inches long and fourteen inches wide, and weighing from fourteen to thirty-four ounces the square foot, two cents per pound; on copper rods, bolts, nails, spikes, copper bottoms, copper in sheets or plates, called braziers' copper, and other sheets of copper not otherwise provided for, twenty-five per centum ad valorem; on zinc, spelter or teutenegue, manufactured, in blocks or pigs, one-dollar per hundred pounds; on zinc, spelter or teutenegue in sheets, (d) one cent and a half per pound.

Copper, zinc and spelter.

15. There shall be levied, collected and paid, on the importation of the articles hereinafter mentioned, the following duties, that is to say: (e) \* \*

Ibid. § 9.

I. [On sugar of lead or acetate of lead and nitrate of lead, chromate and bichromate of potash, three cents per pound; on hydriodate, and prussiate of potash and chromic acid, and salts of iodine, and resublimed iodine, fifteen per centum ad valorem; \* \* on Paris white, pipe clay and ochres or ochrey earths not otherwise provided for, when dry, thirty-five cents per one hundred pounds; when ground in oil, one dollar and thirty-five cents per one hundred pounds; on umber, fifty cents per one hundred pounds]; \* \* on linseed, flaxseed, hempseed and rapeseed oil, twenty cents per gallon; oil.

Sugar of lead, &c.  
Earths, &c.

(a) Act 5 August 1861, § 6. 12 Stat. 294.

(b) Iron canks or packages containing caustic soda are entitled to entry at the same rate of duty as imposed on their contents. Dec. Dep. 28 Jan. 1861.

(c) This includes "German spring steel." Dec. Dep. 10 Sept. 1858. "Cast steel in coils." Ibid. 19 June 1858. And "plough steel." Ibid. 20 Oct. 1860.

(d) This does not embrace "corrugated zinc," which is liable to a duty of 30 per cent. ad valorem, under the 21st section, as a "manufacture of zinc." Dec. Dep. 28 Oct. 1857. Sheets of zinc, intended for the sheathing of vessels, and of the form and size designated in the 23d section, are entitled to entry free from duty. Dec. Dep. 28 Oct. 1857.

(e) See infra 48.

- 2 March 1861. on kerosine oil, and all other coal oils, (a) ten cents per gallon; \* \* on copperas, green vitriol or sulphate of iron, twenty-five cents per one hundred pounds; on bleaching powders, fifteen cents per one hundred pounds; on refined camphor, six cents per pound; on refined borax, three cents per pound; on tallow, one cent per pound. \* \*
- Ibid. § 10. 16. There shall be levied, collected and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say:
- Salt. I. On salt, four cents per bushel of fifty-six pounds: *Provided*, That salt imported in  
Vinegar. bags, or not in bulk, shall pay a duty of six cents per bushel of fifty-six pounds; on  
Pickled fish. bristles, four cents per pound; \* \* on vinegar, six cents per gallon; on mackerel, two dollars per barrel; on herrings, pickled or salted, one dollar per barrel; on pickled salmon, three dollars per barrel; on all other fish pickled, in barrels, one dollar and fifty cents per barrel; on all other foreign caught fish imported otherwise than in barrels or half barrels, or whether fresh, smoked or dried, salted or pickled, not otherwise provided for, fifty cents per one hundred pounds.
- Provisions. II. On beef and pork, one cent per pound; on hams and bacon, two cents per pound;  
Grain. on cheese, four cents per pound; on wheat, twenty cents per bushel; on butter, four cents per pound; on lard, two cents per pound; on rye and barley, fifteen cents per bushel; on Indian corn or maize, ten cents per bushel; on oats, ten cents per bushel; on potatoes, ten cents per bushel; on cleaned rice, one cent per pound; on uncleaned rice or paddy, fifty cents per one hundred pounds; on sago and sago flour, fifty cents per one hundred pounds; on flaxseed or linseed, sixteen cents per bushel of fifty-two pounds.
- Ibid. § 11. 17. There shall be levied, collected and paid, on the importation of the articles hereinafter mentioned, the following duties, that is to say: \* \*
- Dried fruit and nuts. I. On prunes, two cents per pound; on plums, one cent per pound; on dates, one-half of one cent per pound; on currants, two cents per pound; on figs, three cents per pound; on sultana, muscatel and bloom raisins, either in boxes or jars, two cents per pound; on all other raisins, one cent per pound; on almonds, two cents per pound; on shelled almonds, four cents per pound; on all nuts not otherwise provided for, (b) except those used for dyeing, one cent per pound.
- Ibid. § 12. 18. There shall be levied, collected and paid, on the importation of the articles hereinafter mentioned, the following duties, that is to say:
- Wool and hair. I. On all wool unmanufactured, and all hair of the alpaca, goat and other like animals, unmanufactured, the value whereof at the last port or place from whence exported to the United States, shall be eighteen cents or less (c) per pound, five per centum ad valorem; exceeding eighteen cents per pound, and not exceeding twenty-four cents per pound, there shall be levied, collected and paid a duty of three cents per pound; exceeding twenty-four cents per pound, there shall be levied, collected and paid a duty of nine cents per pound: *Provided*, That any wool of the sheep, or hair of the alpaca, the goat and other like animals which shall be imported in any other than the ordinary condition, as now and heretofore practised, or which shall be changed in its character or condition for the purpose of evading the duty, or which shall be reduced in value by the admixture of dirt or any foreign substance to eighteen cents or less per pound, shall be subject to pay a duty of nine cents per pound, anything in this act to the contrary notwithstanding: *Provided also*, That when wool of different qualities is imported in the same bale, bag or package, and the aggregate value of the contents of the bale, bag or package shall be appraised by the appraisers at a rate exceeding twenty-four cents per pound, it shall be charged with a duty of nine cents per pound: *Provided further*, That if bales of different qualities are embraced in the same invoice, at the same price, whereby the average price shall be lessened more than ten per centum, the value of the whole shall be appraised according to the value of the bale of the best quality, and no bale or bales shall be liable to a less rate of duty in consequence of being invoiced with wool of lower value: *Provided also*, That sheep skins, raw or unmanufactured, imported with the wool on, washed or unwashed, shall be subject to a duty of fifteen per centum ad valorem.
- Sheep skins. 19. There shall be levied, collected and paid, on the importation of the articles hereinafter mentioned, the following duties, that is to say:
- Ibid. § 13. I. On Wilton, Saxony and Aubusson, Axminster, patent velvet, Tournay velvet and  
Carpets. tapestry velvet carpets and carpeting, Brussels carpets wrought by the Jacquard machine, and all medallion or whole carpets, valued at one dollar and twenty-five cents or under per square yard, forty cents per square yard; valued at over one dollar and twenty-five cents per square yard, fifty cents per square yard: *Provided*, That no carpet

(a) This embraces "crude naphtha." Dec. Dep. 21 June 1855.

(b) This includes "walnuts." Dec. Dep. 10 Aug. 1857. And "elberts." Ibid. 23 Aug. 1857. But it does not embrace "peanuts," which are dutiable as "vegetables" under the 19th section.

Ibid. 4 Aug. 1858.

(c) Act 5 August 1861, § 6. 12 Stat. 204. And act 14 July 1863, § 19. 12 Stat. 559.

or rugs of the above description shall pay a duty less than twenty-five per centum ad valorem; on Brussels and tapestry Brussels carpets and carpeting printed on the warp or otherwise, thirty cents per square yard; on all treble-ingrain and worsted-chain Venetian carpets and carpeting, twenty-five cents per square yard; on hemp or jute carpeting, four cents per square yard; on druggets, bockings and felt carpets and carpeting printed, colored or otherwise, twenty cents per square yard; on all other kinds of carpets and carpeting of wool, flax or cotton, or parts of either, or other material not otherwise specified, a duty of thirty per centum ad valorem: *Provided*, That mats, rugs, screens, covers, hassocks, bedsides and other portions of carpets or carpeting shall pay the rate of duty herein imposed on carpets or carpeting of similar character on all other mats, screens, hassocks and rugs, a duty of thirty per centum ad valorem.

2 March 1861.

Mats, rugs, &amp;c.

II. On woollen cloths, woollen shawls and all manufactures of wool of every description, made wholly or in part of wool, not otherwise provided for, a duty of twelve cents per pound, and in addition thereto twenty-five per centum ad valorem; on endless belts for paper, and blanketing for printing machines, twenty-five per centum ad valorem; on all flannels valued at thirty cents or less per square yard, twenty-five per centum ad valorem; valued above thirty cents per square yard, and on all flannels colored, printed or plaided, and flannels composed in part of cotton or silk, thirty per centum ad valorem; on hats of wool, twenty per centum ad valorem; on woollen and worsted yarn, valued at fifty cents and not over one dollar per pound, twelve cents per pound, and in addition thereto fifteen per centum ad valorem; on woollen and worsted yarn, valued at over one dollar per pound, twelve cents per pound, and in addition thereto twenty-five per centum ad valorem; on woollen and worsted yarns, or yarns for carpets, valued under fifty cents per pound, and not exceeding in fineness number fourteen, twenty-five per centum ad valorem; exceeding number fourteen, thirty per centum ad valorem; on clothing ready made, and wearing apparel of every description, composed wholly or in part of wool, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer, except hosiery, (a) twelve cents per pound, and in addition thereto twenty-five per centum ad valorem; on blankets of all kinds, made wholly or in part of wool, (b) valued at not exceeding twenty-eight cents per pound, there shall be charged a duty of six cents per pound, and in addition thereto ten per centum ad valorem; on all valued above twenty-eight cents per pound, but not exceeding forty cents per pound, there shall be charged a duty of six cents per pound, and in addition thereto twenty-five per centum ad valorem; on all valued above forty cents per pound there shall be charged a duty of twelve cents per pound, and in addition thereto twenty per centum ad valorem. \* \*

Manufactures of wool.

Yarn.

Clothing.

Blankets.

III. On all delaines, (c) Cashmere delaines, muslin delaines, barege delaines, composed wholly or in part of worsted, gray or uncolored, and on all other gray or uncolored goods of similar description, twenty-five per centum ad valorem; on bunting, and on all stained, colored or printed, and on all other manufactures of worsted, or of which worsted shall be a component material, not otherwise provided for, thirty per centum ad valorem. (d)

Delaines.

Bunting, &amp;c.

IV. On oil cloth, for floors, stamped, painted or printed, valued at fifty cents or less per square yard, twenty per centum ad valorem; valued at over fifty cents per square yard, and on all other oil cloth, thirty per centum ad valorem.

Oil cloth.

20. There shall be levied, collected and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say:

Ibid. § 14.

I. On all manufactures of cotton not bleached, colored, stained, painted or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, one cent per square yard; on finer or lighter goods of like description, not exceeding one hundred and forty threads to the square inch, counting the warp and filling, two cents per square yard; on goods of like description, exceeding one hundred and forty threads, and not exceeding two hundred threads to the square inch, counting the warp and filling, three cents per square yard; on like goods exceeding two hundred threads to the square inch, counting the warp and filling, four cents per square yard; on all goods embraced in the foregoing schedules, if bleached, there shall be levied, collected and paid an additional duty of one-half of one cent per square yard; and if printed, painted, colored or stained, there shall be levied, collected and paid a duty of ten per centum ad valorem, (d) in addition to the rates of duty provided in the foregoing schedules: *Provided*, That upon all plain woven cotton goods not included in the foregoing schedules, and upon cotton goods of every description, the value of which shall exceed sixteen cents per square yard, there shall

Manufactures of cotton, unbleached, &amp;c.

Plain woven cotton goods.

(a) Act 5 August 1861 § 6. 12 Stat. 294.

(b) This does not include "Gentianella blankets," which are embraced in the designation of manufactures of wool not otherwise provided for. Dec. Dep. 23 Oct. 1857. See *Wilkinson v.*Greeley, 1 Curt. C. C. 439. *Christ v. Baker*, 17 Leg. Int. 322.

(c) This does not embrace twilled fabrics. Dec. Dep. 21 Sept. 1857.

(d) See act 5 August 1861 § 6. 12 Stat. 294.



2 March 1861.

be levied, collected and paid a duty of twenty-five per centum ad valorem: *And provided, further*, That no cotton goods having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads.

Cotton thread.

II. On spool and other thread of cotton, thirty per centum ad valorem.

Shirts and drawers.

III. On shirts and drawers, wove or made on frames, composed wholly of cotton and cotton velvet, twenty-five per centum ad valorem; and on all manufactures composed wholly of cotton, bleached, unbleached, printed, painted or dyed, not otherwise provided for, (a) thirty per centum ad valorem.

Other manufactures of cotton.

Manufactures of flax, jute or hemp.

IV. On all brown or bleached linens, ducks, canvas paddings, cot-bottoms, burlaps, drills, coatings, brown Hollands, blay linens, damasks, diapers, crash, huckabacks, handkerchiefs, lawns or other manufactures of flax, jute or hemp, [or of which flax, jute or hemp] shall be the component material of chief value, being of the value of thirty cents and under per square yard, twenty-five per centum ad valorem; valued above thirty cents per square yard, thirty per centum ad valorem; on flax or linen threads, twine and pack-thread, and all other manufactures of flax, or of which flax shall be the component material of chief value, and not otherwise provided for, thirty per centum ad valorem.

Ibid. § 15.

21. There shall be levied, collected and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say:

Hemp and cordage.

I. On unmanufactured hemp, (b) thirty-five dollars per ton; on Manilla and other humps of India, fifteen dollars per ton; on jute, Sisal grass, sun hemp, coir and other vegetable substances not enumerated, used for cordage, ten dollars per ton; on jute butts, five dollars per ton; on codilla or tow of hemp, ten dollars per ton; on tarred cables or cordage, two cents and a half per pound; on untarred Manilla cordage, two cents per pound; on all other untarred cordage, three cents per pound; on hemp (c) yarns, four cents per pound; on coir yarn, one cent per pound; on seines, six cents per pound; on cotton bagging, or any other manufacture not otherwise provided for, suitable for the uses to which cotton bagging is applied, whether composed in whole or in part of hemp, jute or flax, or any other material valued at less than ten cents per square yard, one cent and a half per pound; over ten cents per square yard, two cents per pound; on sail duck, twenty-five per centum ad valorem; on Russia and other sheetings of flax or hemp, (c) brown and white, twenty-five per centum ad valorem; and on all other manufactures of hemp, or of which hemp shall be a component part, not otherwise provided for, (d) twenty per centum ad valorem; on unmanufactured flax, fifteen dollars per ton; on tow of flax, five dollars per ton; on grass cloth, twenty-five per centum ad valorem; on jute yarns, (c) fifteen per centum ad valorem; on all other manufactures of jute or Sisal grass, not otherwise provided for, twenty per centum ad valorem.

Cotton bagging.

Sheetings.

Other manufactures of hemp, &amp;c.

Ibid. § 17.

22. There shall be levied, collected and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say:—

Glass and manufactures of glass.

On rough plate, cylinder or broad window glass, not exceeding ten by fifteen inches, one cent per square foot; above that, and not exceeding sixteen by twenty-four inches, one cent and a half per square foot; above that, and not exceeding twenty-four by thirty inches, two cents per square foot; all above that, and not exceeding in weight one pound per square foot, three cents per square foot: *Provided*, That all glass imported in sheets or tables, without reference to size or form, shall pay the highest duty herein imposed: *And provided further*, That all rough plate cylinder [or] broad glass, weighing over one hundred pounds per one hundred square feet, shall pay an additional duty on the excess at the same rates as herein imposed; on crown, plate or polished, and on all other window glass not exceeding ten by fifteen inches, one cent and a half per square foot; above that, and not exceeding sixteen by twenty-four inches, two cents and a half per square foot; above that, and not exceeding twenty-four by thirty inches, four cents per square foot; all above that, five cents per square foot: *Provided*, That all crown, plate or polished, and all other window glass weighing over one hundred and fifty pounds per one hundred square feet shall pay an additional duty on such excess of four cents per pound. \* \*

Ibid. § 18.

Watches.

23. There shall be levied, collected and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say: \* \* On watches and parts of watches, and watch materials, and unfinished parts of watches, (e) fifteen per centum ad valorem.

Ibid. § 19.

24. There shall be levied, collected and paid a duty of ten per centum on the importation of the articles hereinafter mentioned and embraced in this section, that is to say:

(a) This does not embrace "cotton socks with dyed tops," the dyed stripe being intended as a trade mark. Dec. Dep. 28 Aug. 1858.

(b) This embraces "Italian flax." Dec. Dep. 24 Oct. 1859.

(c) See act 5 August 1861 § 6. 12 Stat. 294.

(d) This embraces "bale rope." Dec. Dep. 21 April 1858.

(e) This embraces "silver watch cases." Dec. Dep. 29 Oct. 1860.

Acids, nitric, yellow and white, and all other acids of every description used for medicinal purposes or in the fine arts, not otherwise provided for;	Hops;
Aloes;	Horns, horn-tips, bones, bone-tips and teeth, manufactured;
Amber;	Iron liquor;
Ammonia, sal ammonia, muriate and carbonate of ammonia;(a)	Juniper berries;
Anise seed;	Lemon and lime juice;
Arrowroot;	Lime;
Assafetida;	Manganese;
Bamboos;	Marrow and all other grease, and soap stocks and soap stuffs;
Barks of all kinds not otherwise provided for;	Mineral kermes;
Beeswax	Moss, Iceland;
Black lead, or plumbago;	Music, printed with lines, bound or unbound;
Brass, in pigs or bars, or when old and fit only to be remanufactured;	Oatmeal;
Brazil paste;	Oils, palm, seal and cocoa-nut;
Bronze liquor;	Olive oil in casks, other than salad oil
Building stones;	Oranges, lemons and limes;
Chronometers, box or ship's, and parts thereof;(b)	Orange and lemon peel;
Cornmeal;	Paintings(g) and statuary,(h) not otherwise provided for;
Diamonds, glaziers', set or not set;	Paving stones;
Dutch and bronze metal, in leaf;	Pearl or hulled barley;
Engravings or plates, bound or unbound;(c)	Plaster of Paris, when ground;
Flocks, waste, or shoddy;	Quicksilver;
Fruit, green, ripe or dried, not otherwise provided for;(d)	Rye flour;
Furs, dressed or undressed, when on the skin;(e)	Saffron and saffron cake;
Furs, hatters', dressed or undressed, when not on the skin;	Salts of tin;
Gamboge;	Sarsaparilla;
Ginger, preserved or pickled;	Sepia;
Glass plates or disks, unwrought, for optical instruments;	Shaddock;
Goldbeaters' skin;	Sheathing paper;
Green turtle;	Sponges;
Grindstones, wrought or finished;	Spunk;
Gum substitute, or burnt starch;	Squills;
Hair of all kinds, cleaned, but unmanufactured, not otherwise provided for;	Tapicoa;
	Tagger's iron;
	Teazels;
	Terne tin, in plates or sheets;
	Tin-foil;
	Tin, in plates or sheets;
	Vegetables, not otherwise provided for;(i)
	Yams.

2 March 1861.

Articles chargeable with a duty of ten per cent. ad valorem.

25. There shall be levied, collected and paid a duty of twenty per centum on the importation of the articles hereinafter mentioned and embraced in this section, that is to say:

Antimony, tartrate of;	Brick, fire-brick, and roofing and paving tile, not otherwise provided for;
Blank books, bound or unbound;(k)	Brimstone in rolls;
Blue or Roman vitriol, or sulphate of copper;	Bronze powder;
Boards, planks, staves, laths, scantling, spars, hewn and sawed timber, and timber used in building wharves;	Burgundy pitch;
	Burr stones, manufactured or bound up into millstones;

Ibid. § 20.  
Articles chargeable with a duty of twenty per cent. ad valorem.

(a) This does not include "sulphate of ammonia." Dec. Dep. 2 April 1858.

(b) This does not embrace "empty chronometer cases," which are liable to duty as "manufactures of mahogany or rosewood," under the 22d section. Dec. Dep. 3 Aug. 1858.

(c) This does not include "stereoscopic views," which are a non-enumerated article. Dec. Dep. 16 Dec. 1858. But it embraces "lithographs printed in colors." Ibid. 25 March 1859. And "lithographs colored in oil." Ibid. 25 Jan. 1861.

(d) This does not include walnuts, which are embraced in the designation of "nuts not otherwise provided for." Dec. Dep. 10 Aug. 1857. Nor "almonds," which are charged with a specific duty of two cents per pound. Ibid. 11 Aug. 1857. Nor "filberts." Ibid. 28 Aug. 1857. Nor "tamarinde preserved in sugar," which are dutiable as "fruits preserved in sugar," under the 22d section. Ibid. 28 Aug. 1858.

(e) This does not embrace "vicunia skins," which are liable to duty as a non-enumerated article. Dec. Dep. 31 Jan. 1859. But

"mink skins" are within this designation. Ibid. 28 Sept. 1858.

(f) This does not include "Geneva enameled painting," intended to be manufactured into ornaments for the person, which are liable to duty as non-enumerated articles. Dec. Dep. 3 March 1858.

(g) This embraces "Parian marble busts and figures." The term "statuary" is confined in its application to figures, representing living or deceased creatures of whatever species, real or imaginary, in full *relievo*, insulated in every part, and which may be formed of marble, plaster, bronze, galvanized zinc, or other material appropriate to the composition of articles of taste. Dec. Dep. 29 Oct. 1857. It also embraces "bisque statues." Ibid. 29 Oct. 1859. But not "porcelain toys." Ibid. 10 Oct. 1859.

(h) This includes "peanuts." Dec. Dep. 4 Aug. 1858.

(i) This includes "blank copying books" for the transfer of writings by means of a copying press. Dec. Dep. 1 March 1858. But it does not embrace "copy-books with printed headings," which are a non-enumerated article. Ibid. 27 July 1860.

2 March 1861.

Calomel ;  
 Castor oil ;  
 Castorum ;  
 Chicory root ;  
 Chromate of lead ;  
 Cotton laces, cotton insertings, cotton trimming laces, and cotton braids ;  
 Cowhage down ;  
 Dried pulp ;  
 Ether ;  
 Feldspar ;  
 Fig-blue ;  
 Firewood ;  
 Fish glue or isinglass ;  
 Fish skins ;  
 Flour of sulphur ;  
 Frankfort black ;  
 Glue ;  
 Gold and silver leaf ;  
 Grapes ;  
 Hair, curled, moss, seaweed, and all other vegetable substances used for beds or mattresses ;(a)  
 Hat bodies, made of wool, or of which wool is the component material of chief value ;(b)  
 Hatters' plush, composed of silk and cotton, but of which cotton is the component material of chief value ;  
 Lampblack ;  
 Leather, tanned, bend or sole ;  
 Leather, upper, of all kinds, (c) except tanned calfskin, which shall pay twenty-five per centum ad valorem ;  
 Malt ;  
 Mats of cocoa-nut ;  
 Matting, China, and other floor matting, and mats made of flags, jute or grass ;(d)  
 Mercurial preparations, not otherwise provided for ;  
 Medicinal roots and leaves, and all other drugs and medicines in a crude state, not otherwise provided for ;  
 Metals, unmanufactured, not otherwise provided for ;  
 Mineral and bituminous substances in a crude state, not otherwise provided for ;(e)  
 Musical instruments of all kinds, and strings for musical instruments of whip

gut or cat gut, and all other strings of the same material ;  
 Needles of all kinds for sewing, darning and knitting ;  
 Oils, neatsfoot and other animal oils, spermaceti, whale and other fish oil, the produce of foreign fisheries ;  
 Osier or willow, prepared for basket-makers' use ;  
 Paints, dry or ground in oil, not otherwise provided for ;(g)  
 Pitch ;  
 Plaster of Paris, calcined ;  
 Quills ;  
 Ratans and reeds, manufactured or partially manufactured ;  
 Red precipitate ;  
 Roman cement ;  
 Rosin ;  
 Sal soda, hyposulphate of soda, and all carbonates of soda, by whatever name designated, not otherwise provided for ;  
 All other salts and preparations of salts, not otherwise provided for ;(h)  
 Shoes or boots, and other articles, composed wholly of India-rubber, not otherwise provided for ;  
 Skins, tanned and dressed, of all kinds ;  
 pieces of all kinds, not otherwise provided for ;  
 Starch ;  
 Spirits of turpentine ;  
 Stereotype plates ;  
 Still bottoms ;  
 Strychnine ;  
 Sulphate of barytes, crude or refined ;  
 Sulphate of magnesia ;  
 Tar ;  
 Thread laces and insertings ;(i)  
 Type metal ;  
 Types, new ;  
 Varnish of all kinds ;  
 Vandyke brown ;  
 Whalebone, the produce of foreign fisheries ;  
 White vitriol or sulphate of zinc ;  
 Wood unmanufactured, not otherwise provided for ;  
 Woollen listings.

Ibid. § 21.

Copper ore.  
Gems.

Hair cloth, &amp;c.

Ibid. § 22.

26. There shall be levied, collected and paid on copper ore, and diamonds, cameos, mosaics, gems, pearls, rubies and other precious stones, when not set, a duty of five per centum ad valorem on the same ; when set in gold, silver or other metal, or on imitations thereof, and all other jewelry, twenty-five per centum ad valorem. On hair cloth and hair seatings, and all other manufactures of hair, not otherwise provided for, twenty-five per centum ad valorem.

27. There shall be levied, collected and paid a duty of thirty per centum on the importation of the articles hereinafter mentioned and embraced in this section, that is to say :

(a) This embraces "Pulu," imported from the Hawaiian Islands, and used for beds, mattresses, and cushions. Dec. Dep. 5 April 1858.

(b) This does not embrace "hats made of woollen cloth," which are liable to duty under the 22d section. Dec. Dep. 1 Sept. 1860.

(c) This embraces glazed calf skin or patent leather. Keutgen v. Lawrence, 1 Blatch. 615.

(d) This does not embrace "jute carpeting." Dec. Dep. 16 June 1858.

(e) This embraces "mineral oil." Dec. Dep. 2 March 1859.

(g) This includes "drop black." Dec. Dep. 11 July 1859.

(h) This includes "chlorate of potash and sal acetocella." Dec. Dep. 27 Aug. 1857. Also "sulphate of ammonia." Ibid. 2 April 1858.

(i) Thread lace, made wholly by machinery, and composed of linen and cotton, is embraced in this description. Lottimer v. Lawrence, 1 Blatch. 613.

- Alabaster and spar ornaments;**  
**Anchovies, sardines and all other fish preserved in oil;**  
**Argentine, alabatta or German silver, manufactured or unmanufactured;**  
**Articles embroidered with gold, silver or other metal;**  
**Articles worn by men, women or children, of whatever material composed, made up, or made wholly or in part by hand, not otherwise provided for;(a)**  
**Asses' skins;**  
**Balsams, cosmetics, essences, extracts, pastes, perfumes and tinctures, used either for the toilet or for medicinal purposes;(b)**  
**Baskets, and all other articles composed of grass, ozier, palm leaf, straw, whalebone or willow, not otherwise provided for;**  
**Beads of amber, composition or wax, and all beads;(c)**  
**Benzoates;**  
**Bologna sausages;**  
**Bracelets, braids, chains, curls or ringlets, composed of hair, or of which hair is a component material;**  
**Braces, suspenders, webbing or other fabrics, composed wholly or in part of India-rubber, not otherwise provided for;**  
**Brooms and brushes of all kinds;**  
**Buttons and button moulds of all kinds;**  
**Canes and sticks for walking, finished or unfinished;**  
**Capers, pickles (d) and sauces of all kinds, not otherwise provided for;**  
**Caps, hats, muffs and tippets of fur, and all other manufactures of fur, or of which fur shall be a component material;**  
**Caps, gloves, leggins, mits, socks, (e) stockings, wove shirts and drawers, and all similar articles made on frames, of whatever material composed, worn by men, women or children, and not otherwise provided for;**  
**Card cases, pocket books, shell boxes, souvenirs and all similar articles, of whatever material composed;**  
**Carriages and parts of carriages;**  
**Clocks and parts of clocks;**  
**Clothing, ready-made, and wearing apparel of every description, of whatever material composed, except wool, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer;**  
**Coach and harness furniture of all kinds, saddlery, coach and harness hardware, silver plated, brass, brass plated, or covered, common tinned, burnished or japanned, not otherwise provided for;**  
**Combs of all kinds;**  
**Composition tops for tables or other articles of furniture;**  
**Comfits, sweetmeats or fruits preserved in sugar, (g) brandy or molasses, not otherwise provided for;**  
**Coral, cut or manufactured;**  
**Cotton cords, gimps and galloons;**  
**Cotton laces, colored;**  
**Court plaster;**  
**Crayons of all kinds;**  
**Cutlery of all kinds;**  
**Dolls and toys of all kinds;**  
**Encaustic tiles;**  
**Epaulets, galloons, laces, knots, stars, tassels, tresses and wings of gold, silver or other metal;**  
**Fans and fire-screens of every description, of whatever material composed;**  
**Frames and sticks for umbrellas, parasols and sunshades, finished or unfinished;**  
**Furniture, cabinet and household;**  
**Hair pencils;**  
**Hat bodies of cotton;**  
**Hats and bonnets for men, women and children, composed of straw, chip, grass, palm leaf, willow or any other vegetable substance, or of hair, whalebone or other material, not otherwise provided for;**  
**Ink and ink powder;**  
**Japanned, patent, or enamelled leather, or skins of all kinds;(h)**  
**Japanned ware of all kinds, not otherwise provided for;**  
**Jet, and manufactures of jet, and imitations thereof;**  
**Maccaroni, vermicelli, gelatine, jellies and all similar preparations;**  
**Manufactures of silk, or of which silk shall be a component material, not otherwise provided for;(i)**  
**Manufactures of the bark of the cork tree, except corks;**  
**Manufactures of bone, (k) shell, horn, ivory or vegetable ivory;**  
**Manufactures, articles, vessels and wares not otherwise provided for, of brass, copper, gold, iron, lead, pewter, platina, silver, tin or other metal, or of which either of these metals or any other metal shall be the component material of chief value;(l)**

2 March 1861.

Articles chargeable with a duty of thirty per cent. ad valorem.

(a) This embraces "dress ornaments" or "trimming goods" which do not require, in order to be worn upon the person, to be attached by sewing or otherwise, to a dress or garment. Dec. Dep. 31 Dec. 1860. And see Thomson v. Maxwell, 2 Blatch. 386.

(b) This includes "perfumed marrow for toilet soap." Dec. Dep. 3 March 1858.

(c) This does not include "pearls strung on thread" for convenience of transportation. Dec. Dep. 11 Dec. 1858.

(d) "Salted peppers" are not pickles within the meaning of this clause; they are liable to be assessed as non-enumerated articles. Dec. Dep. 30 Oct. 1857. And so are "walnuts in salt and water." Ibid. 30 Sept. 1858. And "limes preserved in salt and water."

Ibid.

(e) This embraces "cotton socks with dyed tops." Dec. Dep. 29 Aug. 1858.

(g) This embraces "tamarinds preserved in sugar." Dec. Dep. 28 Aug. 1858. And "citron." Ibid. 26 Sept. 1860.

(h) This includes "glazed calf skins." Dec. Dep. 26 Oct. 1857.

(i) This embraces "silk violin strings." Dec. Dep. 21 June 1859.

(k) This does not embrace "human skeletons," which are a non-enumerated article. Dec. Dep. 27 Dec. 1860.

(l) This embraces "corrugated zinc." Dec. Dep. 28 Oct. 1857. And "guitar strings" composed of metal and silk. Ibid. 5 April 1858.

2 March 1861.

Manufactures, not otherwise provided for, composed of mixed materials, in part of cotton, silk, wool or worsted, or flax;

Manufactures of cotton, linen, silk, wool or worsted, if embroidered or tamboured, in the loom or otherwise, by machinery or with the needle, or other process, not otherwise provided for;(a)

Manufactures of cedar wood, granadilla, ebony, mahogany, rosewood and satin-wood;(b)

Marble, in the rough or blocks, manufactures of marble, marble paving tiles, and all marble sawed, squared, dressed or polished;

Manufactures and articles of leather, or of which leather shall be a component part, not otherwise provided for;

Manufactures of paper, or of which paper is a component material, not otherwise provided for;(c)

Manufactures, articles and wares of papier mache;

Manufactures of goat's hair or mohair, or of which goat's hair or mohair shall be a component material, not otherwise provided for;(d)

Manufactures of wood, or of which wood is the chief component part, not otherwise provided for;(e)

Medicinal preparations, not otherwise provided for;(g)

Mineral waters;

Muskets, rifles and other fire-arms;

Oil cloth of every description, of whatever material composed, not otherwise provided for;

Ibid. § 23.

Articles free from duty.

28. The importation of the articles hereinafter mentioned and embraced in this section shall be exempt from duty, that is to say:

Acids of every description used for chemical and manufacturing purposes, not otherwise provided for;

Alcornoque;

All books, maps, charts, mathematical, nautical instruments, philosophical apparatus, and all other articles whatever, imported for the use of the United States; all philosophical apparatus,(i) instruments, books, maps and charts,(k) statues, statuary, busts and casts of marble, bronze, alabaster or plaster of Paris; paintings and drawings, etchings, specimens of sculpture, cabinets of coins, medals, regalia, gems and all collections of antiquities: *Provided*, The same be specially imported, in good faith, for the use of any society incorporated or estab-

Olives;

Paper boxes, and all other fancy boxes;

Paper envelopes;

Paper hangings and paper for screens or fire-boards; paper; antiquarian, demy, drawing, elephant, foolscap, imperial, letter, and all other paper not otherwise provided for;

Parasols and sunshades;

Parchment;

Plated and gilt ware of all kinds;

Prepared vegetables, meats, fish, poultry and game, sealed or unsealed, in cans or otherwise;

Red chalk pencils;

Salmon, preserved;

Scagliola tops, for tables or other articles of furniture;

Sealing-wax;

Side arms of every description;

Silver-plated metal, in sheets or other form;

Slates, roofing slates, slate pencils, slate chimney pieces, mantels, slabs for tables and all other manufactures of slate;

Soap, castile, perfumed, Windsor and all other kinds;

Twines and packthread, of whatever material composed, not otherwise provided for;(h)

Umbrellas;

Vellum;

Velvet, when printed or painted;

Wafers;

Water colors;

Webbing composed of wool, cotton, flax or any other materials.

lished for philosophical, literary or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school or seminary of learning in the United States;

Ambergris;

Annatto, Roncou or Orleans;

Animal carbon, (bone black);(l)

Animals, living, of all kinds;

Antimony, crude or regulus of;

Articles in a crude state used in dyeing or tanning, not otherwise provided for;

Bananas;

Bark, Peruvian, or bark quilla;

Barilla, and soda ash;

Bells, old, and bell metal;

Berries, nuts, flowers, plants and vege-

(a) This embraces "embroidered velvet uppers for slippers." Dec. Dep. 24 Aug. 1857.

(b) Fancy boxes, made of common wood and veneered with rosewood or ebony, invoiced as rosewood boxes and ebony boxes, and known to the trade by these names, and also fancy boxes and furnished boxes, fall within this description. *Sill v. Lawrence*, 1 Blatch. 605.

(c) "Labels" are embraced in this designation. Dec. Dep. 29 July 1858.

(d) Goat's hair plush or mohair plush, composed partly of cotton, falls within this description. *Thorp v. Lawrence*, 1 Blatch. 351.

(e) This embraces "shaved shingles." Dec. Dep. 30 Sept. 1858.

(g) This does not include "chlorine d'oxide de sodium," which is liable to duty as a non-enumerated article. Dec. Dep. 3 March 1858.

(h) This embraces "white and blue, or fancy twine or packthread." Dec. Dep. 23 Oct. 1857.

(i) This does not include "bricks for furnaces, chemicals and chemical preparations," or other similar articles imported for the use of a college. Dec. Dep. 29 Oct. 1857.

(k) This does not embrace "plate paper" imported for the use of a college. Dec. Dep. 21 Dec. 1860.

(l) This does not embrace "drop black." Dec. Dep. 11 July 1859.

2 March 1861.

- tables used exclusively in dyeing or in composing dyes; but no article shall be classed as such that has undergone any manufacture;
- Birds, singing or other, and land and water fowls;
- Bismuth;
- Bitter apples;
- Bolting cloths;
- Bones, burnt, and bone-dust;
- Books, maps and charts imported by authority of the joint library committee of congress, for the use of the library of congress: *Provided*, That if, in any case, a contract shall have been made with any bookseller, importer or other person aforesaid, [and such person] shall have paid the duty or included the duty in said contract, in such case the duty shall be remitted;
- Brazil wood, braziletto and all other dye-woods, in sticks; (a)
- Breccia, in blocks or slabs;
- Brimstone, crude, in bulk; (b)
- Brime;
- Bullion, gold and silver;
- Burrstones, wrought or unwrought, but unmanufactured, and not bound up into millstones; (c)
- Cabinets of coins, medals and all other collections of antiquities;
- Cadmium;
- Calamine;
- Chalk, French chalk and red chalk;
- Cochineal;
- Cobalt;
- Cocoa, cocoa shells, cocoa leaves and cocoa-nuts;
- Coffee and tea, when imported direct from the place of their growth or production, in American vessels, or in foreign vessels entitled by reciprocal treaties to be exempt from discriminating duties, tonnage and other charges;
- Coffee, the growth or production of the possessions of the Netherlands, imported from the Netherlands in the same manner; (d)
- Coins, gold, silver and copper;
- Copper, when imported for the United States mint;
- Cork-tree bark, unmanufactured;
- Cream of tartar;
- Cudbear, vegetable and orchil;
- Divi-divi;
- Extract of indigo;
- Extract of madder; (e)
- Extract and decoctions of logwood, and other dye-woods, not otherwise provided for;
- Felt, adhesive, for sheathing vessels; (g)
- Flints; flint, ground;
- Fish, fresh caught, for daily consumption;
- Fullers' earth;
- Ginger root;
- Guttapercha, unmanufactured;
- Grindstones, rough or unfinished;
- Glass, when old, not in pieces which can cut for use, and fit only to be remanufactured;
- Goods, wares and merchandise, the growth, production or manufacture of the United States, exported to a foreign country, and brought back to the United States in the same condition as when exported, (h) upon which no drawback or bounty has been allowed: *Provided*, That all regulations to ascertain the identity thereof, prescribed by existing laws, or which may be prescribed by the secretary of the treasury shall be complied with;
- Guano;
- Household effects, old, and in use of persons or families from foreign countries, if used abroad by them and not intended for any other person or persons, or for sale;
- Hair of all kinds, uncleaned and unmanufactured, and all long horse-hair used for weaving, cleaned or uncleaned, drawn or undrawn;
- India-rubber, in bottles, slabs or sheets, unmanufactured;
- India-rubber, milk of;
- Indigo;
- Ice;
- Iridium;
- Irris, orris root;
- Junk, old, and oakum;
- Kelp;
- Lac dye;
- Lac spirits;
- Lac sulphur;
- Lastings, mohair cloth, silk, twist or other manufactures of cloth, cut in strips or patterns of the size and shape for shoes, slippers, boots, bootees, gaiters and buttons, exclusively, not combined with India-rubber;
- Leeches;
- Madder, ground or prepared, and madder root;
- Manuscripts;

(a) Green ebony is a dye-wood within the meaning of this clause. Dec. Dep. 30 Oct. 1857.

(b) This does not embrace "pyrites or the sulphuret of iron." Dec. Dep. 20 Oct. 1860.

(c) This embraces "burr millstones" not grooved so as to be fitted for use. Dec. Dep. 11 Dec. 1858. But not "rice millstones" not burr, which are liable to duty as a non-enumerated article. Ibid. 14 Dec. 1859.

(d) See *infra* 43.

(e) This embraces "garancine." Dec. Dep. 28 Oct. 1857.

(g) This does not include "dry or boiler felt." Dec. Dep. 25 Aug. 1857. Nor "roofing felt," which is liable to duty as a non-enumerated article. Ibid. 1 April 1868.

(h) This does not include "American machinery damaged by marine disasters and unfit for use until remanufactured," which is liable to duty as "old scrap iron." Dec. Dep. 20 April 1858. Nor does it embrace barrels manufactured in the United States, shipped empty to Cuba, and thence brought back filled with molasses. *Knight v. Schell*, 24 How. 528. *Belcher v. Llan*, Ibid. 533.

2 March 1861.

- Marine coral, unmanufactured ;  
 Medals, of gold, silver or copper ;  
 Machinery, suitable for the manufacture of flax and linen goods only, and imported for that purpose solely, but not including that which may be used for any other manufactures ;  
 Maps and charts ;  
 Mineral blue ;  
 Models of inventions, and other improvements in the arts: *Provided*, That no article or articles shall be deemed a model, or improvement which can be fitted for use ;  
 Munjeet or India madder ;  
 Natron ;  
 Nickel ;  
 Nutgalls ;  
 Nux vomica ;  
 Oil, spermaceti, whale and other fish, of American fisheries, and all other articles the produce of such fisheries ;  
 Ores of gold and silver ; (a)  
 Orpiment, or sulphuret of arsenic ;  
 Paintings and statuary, the production of American artists residing abroad: *Provided*, The fact as aforesaid shall be certified by the artist, or by a consul of the United States. (a)  
 Palm leaf, unmanufactured ;  
 Pearl, mother of ;  
 Personal and household effects, not merchandise, of citizens of the United States dying abroad ;  
 Pine apples ;  
 Plantains ;  
 Plaster of Paris, or sulphate of lime, underground ;  
 Platina, unmanufactured ;  
 Platina vases or retorts ;  
 Polishing stones ;  
 Pumice and pumice stones ;  
 Rags, of whatever material, except wool ;  
 29. There shall be levied, collected and paid on the importation of all raw or unmanufactured articles, not herein enumerated or provided for, a duty of ten per centum ad valorem ; and on all articles manufactured in whole or in part, not herein enumerated or provided for, a duty of twenty per centum ad valorem. (d)  
 30. Wherever the word "ton" is used in this act, in reference to weight, it shall be deemed and taken to be twenty hundred weight, each hundred weight being one hundred and twelve pounds avoirdupois.  
 31. Railroad iron, partially or wholly worn, may be imported into the United States without payment of duty, under bond to be withdrawn and exported after the said railroad iron shall have been repaired or remanufactured. And the secretary of the treasury is hereby authorized and directed to prescribe such rules and regulations as may be necessary to protect the revenue against fraud, and secure the identity, character and weight of all such importations when again withdrawn and exported, restricting and limiting the export and withdrawal to the same port of entry where imported, and also limiting all bonds to a period of time of not more than six months from the date of the importation.  
 32. In all cases where the duty upon any imports of goods, wares or merchandise shall be subject to be levied upon the true market value of such imports in the principal
- Ratans and reeds, unmanufactured ;  
 Rottenstone ;  
 Safflower ;  
 Sandal-wood ;  
 Seedlac ;  
 Shellac ;  
 Shingle-bolts and stove-bolts ;  
 Silk, raw, or as reeled from the cocoon, not being doubled, twisted or advanced in manufacture any way, (b) and silk cocoons and silk waste ;  
 Smalts ;  
 Specimens of natural history, mineralogy and botany ;  
 Staves for pipes, hogsheads or other casks ;  
 Stoneware, not ornamented, above the capacity of ten gallons ;  
 Substances expressly used for manure ;  
 Sumac ;  
 Terra japonica, catechu or cutch ;  
 Tin, in pigs, bars or blocks ;  
 Tortoise and other shell, unmanufactured ;  
 Trees, shrubs, bulbs, plants and roots, not otherwise provided for ; (c)  
 Turmeric ;  
 Types, old, and fit only to be remanufactured ;  
 Wearing apparel in actual use, and other personal effects (not merchandise), professional books, implements, instruments and tools of trade, occupation or employment of persons arriving in the United States: *Provided*, That this exemption shall not be construed to include machinery or other articles imported for use in any manufacturing establishment, or for sale ;  
 Weld ;  
 Woad or pastel ;  
 Woods, namely: cedar, lignum-vitæ, lancewood, ebony, box, granadilla, mahogany, rosewood, satinwood and all cabinet woods, unmanufactured ;

Ibid. § 24.

Non-enumerated articles.

Ibid. § 26.

What to be deemed a ton.

Ibid. § 27.

Old railroad iron may be imported under bond, to be remanufactured and exported.

Ibid. § 28.

(a) See act 14 July 1862, § 19. 12 Stat. 559.

(b) This includes "Taysam re-reeled silk." Dec. Dep. 23 Oct. 1857.

(c) This has reference exclusively to articles imported for planting and the propagation of plants; it does not embrace the

refuse of beet root from the sugar manufactories, which is a non-enumerated article. Dec. Dep. 15 Dec. 1858.

(d) This includes "Tyrian dye," which is liable to a duty of 20 per cent. Dec. Dep. 8 July 1861. Also "extract of safflower." Dec. Dep. 23 January 1862.

markets of the country from whence the importation shall have been made, or at the port of exportation, the duty shall be estimated and collected upon the value on the day of actual shipment whenever a bill of lading shall be presented showing the date of shipment, and which shall be certified by a certificate of the United States consul, commercial agent or other legally authorized deputy.

2 March 1861.

Market value to be estimated on the day of shipment.

33. There shall be allowed a drawback on foreign hemp manufactured into cordage in the United States and exported therefrom, equal in amount to the duty paid on the foreign hemp from which it shall be manufactured; to be ascertained under such regulations as shall be prescribed by the secretary of the treasury, and no more: *Provided*, That ten per centum on the amount of all drawbacks so allowed shall be retained for the use of the United States by the collectors paying such drawbacks respectively.

Ibid. § 30.

Drawback on foreign hemp, manufactured and exported.

34. That all acts and parts of acts repugnant to the provisions of this act, be and the same are hereby repealed: *Provided*, That the existing laws shall extend to, and be in force for, the collection of the duties imposed by this act, for the prosecution and punishment of all offences, and for the recovery, collection, distribution and remission of all fines, penalties and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter and thing to that effect, in the existing laws contained, had been inserted in and re-enacted by this act.

Ibid. § 31.

Existing laws to apply to collection of duties under this act.

35. When merchandise of the same material or description, but of different values, are invoiced at an average price, and not otherwise provided for, the duty shall be assessed upon the whole invoice at the rate the highest valued goods in such invoice are subject to under this act. The words value and valued, used in this act, shall be construed and understood as meaning the true market value of the goods, wares and merchandise in the principal markets of the country from whence exported at the date of exportation.

Ibid. § 32.

Assessment where goods of different values are in the same invoice.

36. All goods, wares and merchandise actually on shipboard, and bound to the United States, within fifteen days after the passage of this act, and all goods, wares and merchandise in deposit in warehouse or public store on the 1st day of April 1861, shall be subject to pay such duties as provided by law before and at the time of the passage of this act; and all goods in warehouse at the time this act takes effect, on which the duties are lessened by its provisions, may be withdrawn on payment of the duties herein provided.

Ibid. § 33.

Duties on goods on shipboard and in the public warehouses.

37. In lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

6 August 1861 § 1.  
12 Stat. 292.

Increase of certain specific duties.

\* \* On almonds, four cents per pound; shelled almonds, six cents per pound; on brimstone, crude, three dollars per ton; on brimstone, in rolls, six dollars per ton; \* \* on cocoa, three cents per pound; on cocoa leaves and cocoa shells, two cents per pound; on cocoa, prepared or manufactured, eight cents per pound; \* \* on chocolate, six cents per pound; \* \* on currants, five cents per pound; \* \* on cream tartar, six cents per pound; on tartar emetic, \* \* ten cents per pound; on dates, two cents per pound; on figs, five cents per pound; on ginger root, three cents per pound; \* \* on nuts of all kinds, not otherwise provided for, two cents per pound; \* \* on plums, five cents per pound; on prunes, five cents per pound; on raisins, five cents per pound; on unmanufactured Russia hemp, forty dollars per ton; on Manilla and other hems of India, twenty-five dollars per ton; on lead, in pigs or bars, one dollar and fifty cents per one hundred pounds; in sheets, two dollars and twenty-five cents per one hundred pounds; on white lead, dry or ground in oil, and red lead, two dollars and twenty-five cents per one hundred pounds; on salt, in sacks, eighteen cents per one hundred pounds, and in bulk, twelve cents per one hundred pounds; on soda ash, one-half cent per pound; on bicarbonate of soda, one cent per pound; on sal soda, one-half cent per pound; on caustic soda, one cent per pound; on chloride of lime, thirty cents per one hundred pounds; on saltpetre, crude, one cent per pound; refined, or partially refined, two cents per pound; spirits of turpentine, ten cents per gallon; on oil of cloves, seventy cents per pound; on brandy, one dollar and twenty-five cents per gallon; on spirits distilled from grain, or other materials, fifty cents per gallon. \* \*

Chocolate.

Fruit.

Hemp.

Lead.

Salt.

Spirits.

38. There shall be levied, collected and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say: On arrowroot, twenty per centum ad valorem; on ginger, preserved or pickled, thirty per centum ad valorem; on limes, lemons, oranges, bananas and plantains, twenty per centum ad valorem; on Peruvian bark, fifteen per centum ad valorem; \* \* on rags, of whatever material, ten per centum ad valorem; \* \* on sole and bend leather, thirty per centum ad valorem; on India-rubber, raw or unmanufactured, ten per centum ad valorem; on India-rubber shoes and boots, thirty per centum ad valorem; on ivory, unmanufactured, and on vegetable

Ibid. § 2.

Ad valorem duties.

Fruits.

Leather, &c.  
India rubber.



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Ivory.

Silks.

ivory, ten per centum ad valorem; on wines of all kinds, fifty per centum ad valorem; on silk in the gum, not more advanced in the manufacture than single tram and thrown or organzine, (a) twenty-five per centum ad valorem; on all silks valued at not over one dollar per square yard, thirty per centum ad valorem; on all silks valued over one dollar per square yard, forty per centum ad valorem; on all silk velvets or velvets of which silk is the component material of chief value, valued at three dollars per square yard, or under, thirty per centum ad valorem; valued at over three dollars per square yard, forty per centum ad valorem; on floss silks, thirty per centum ad valorem; on silk ribbons, galloons, braids, fringes, laces, tassels, buttons, button-cloths, trimmings, and on silk twist, twist composed of mohair and silk, sewing silk in gum or purified, and all other manufactures of silk, or of which silk shall be the component material of chief value, not otherwise provided for, forty per centum ad valorem.

Ibid. § 3.

Articles imported in foreign vessels.

39. All articles, goods, wares and merchandise, imported from beyond the Cape of Good Hope in foreign vessels, not entitled by reciprocal treaties to be exempt from discriminating duties, tonnage and other charges, and all other articles, goods, wares and merchandise not imported direct from the place of their growth or production, or in foreign vessels, entitled by reciprocal treaties to be exempt from discriminating duties, tonnage and other charges, shall be subject to pay, in addition to the duties imposed by this act, ten per centum ad valorem: *Provided*, That this rule shall not apply to goods, wares and merchandise imported from beyond the Cape of Good Hope in American vessels.

Ibid. § 4.

Drawback.

40. There shall be allowed on all articles wholly manufactured of materials imported, on which duties have been paid, when exported, a drawback, equal in amount to the duty paid on such materials and no more, to be ascertained under such regulations as shall be prescribed by the secretary of the treasury: *Provided*, That ten per centum on the amount of all drawbacks so allowed, shall be retained for the use of the United States by the collectors paying such drawbacks respectively.

Ibid. § 5.

Goods on shipboard and in store.

41. All goods, wares and merchandise, actually on shipboard and bound to the United States, and all goods, wares and merchandise, on deposit in warehouses or public stores at the date of the passage of this act, shall be subject to pay such duties as provided by law before and at the time of the passage of this act: *Provided*, That all goods deposited in public store or bonded warehouse after this act takes effect and goes into operation, if designed for consumption in the United States, must be withdrawn therefrom, or the duties thereon paid in three months after the same are deposited, and goods designed for exportation and consumption in foreign countries may be withdrawn by the owner at any time before the expiration of three years after the same are deposited, such goods, if not withdrawn in three years, to be regarded as abandoned to the government, and sold under such regulations as the secretary of the treasury may prescribe, and the proceeds paid into the treasury: *Provided*, That merchandise upon which the owner may have neglected to pay duties within three months from the time of its deposit may be withdrawn and entered for consumption at any time within two years of the time of its deposit upon the payment of the legal duties, with an addition of twenty-five per centum thereto. (b)

Ibid. § 7.

Repealing section.

42. That all acts and parts of acts repugnant to the provisions of this act be and the same are hereby repealed: *Provided*, That the existing laws shall extend to, and be in force for, the collection of the duties imposed by this act, for the prosecution and punishment of all offences, and for the recovery, collection, distribution and remission of all fines, penalties and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter, and thing to that effect in the existing laws contained, had been inserted in and re-enacted by this act.

24 Dec. 1861 § 1.  
12 Stat. 330.

Teas.

Coffee.

43. In lieu of the duties heretofore imposed by law on articles hereinafter mentioned, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: First. On all teas, twenty cents per pound. Second. On coffee of all kinds, five cents per pound. (c)

14 July 1862 § 1.  
12 Stat. 543.

Increased tariff.

44. From and after the first day of August, Anno Domini 1862, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

Sugar.

On syrup of sugar, or of sugar cane, or concentrated molasses, or concentrated melado, two cents per pound;

(a) This does not embrace "Taysnam re-reeled silk," which is entitled to entry free of duty. Dec. Dep. 23 Oct. 1867.

(b) See *infra* 58.

(c) See resolution 11 January 1862. 12 Stat. 611.

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On all sugar not above number twelve Dutch standard in color, two and one-half cents per pound;

On all sugar above number twelve, and not above number fifteen Dutch standard in color, three cents per pound;

On all sugar above number fifteen, not stove-dried, and not above number twenty Dutch standard in color, three and one-half cents per pound.

On all refined sugar in form of loaf, lump, crushed, powdered, pulverized or granulated, and all stove-dried or other sugar above number twenty Dutch standard in color, four cents per pound: *Provided*, That the standards by which the color and grades of sugars are to be regulated shall be selected and furnished to the collectors of such ports of entry as may be necessary, by the secretary of the treasury, from time to time, and in such manner as he may deem expedient;

On sugar candy, not colored, six cents per pound; on all other confectionery, made wholly or in part of sugar, and on sugars, after being refined, when tintured, colored or in any way adulterated, ten cents per pound; Confectionery.

On molasses, six cents per gallon: *Provided*, That all syrups of sugar or sugar cane, concentrated molasses or concentrated melado, entered under the name of molasses, or any other name than syrup of sugar or of sugar cane, concentrated molasses or concentrated melado, shall be liable to forfeiture to the United States, and the same shall be forfeited; (a) Molasses.

On cigars of all kinds, valued at five dollars or less per thousand, thirty-five cents per pound; valued at over five dollars and not over ten dollars per thousand, sixty cents per pound; valued at over ten and not over twenty dollars per thousand, eighty cents per pound; valued at over twenty dollars per thousand, one dollar per pound; and in addition thereto on all cigars valued at over ten dollars per thousand, ten per centum ad valorem: *Provided*, That paper cigars or cigarettes, including wrappers, shall be subject to the same duties imposed on cigars; Cigars.

On snuff, thirty-five cents per pound;

Snuff.

On tobacco, in leaf, unmanufactured and not stemmed, twenty-five cents per pound;

Tobacco.

On stemmed, and tobacco manufactured of all descriptions, not otherwise provided for, thirty-five cents per pound.

45. From and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned, and included in this section, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: Ibid. § 2.

On brandy, for first proof, twenty-five cents per gallon;

Spirituos  
liquors.

On other spirits, manufactured or distilled from grain or other materials, for first proof, fifty cents per gallon;

On cordials and liqueurs of all kinds, and arrack, absynthe, kirschenwasser, ratafia and other similar spirituous beverages not otherwise provided for, twenty-five cents per gallon;

On bay rum, twenty-five cents per gallon;

On ale, porter and beer, in bottles or otherwise, five cents per gallon;

Malt liquors.

On all spirituous liquors not otherwise enumerated, sixteen and two-thirds per centum ad valorem: *Provided*, That no lower rate or amount of duty shall be levied, collected and paid on brandy, spirits, and all other spirituous beverages, than that fixed by law for the description of first proof, but shall be increased in proportion for any greater strength than the strength of first proof: *And provided further*, That bottles containing wines subject to ad valorem duties shall be liable to and pay the same rate of duty as that fixed upon the wines therein contained.

46. From and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say: Ibid. § 3.

On bar iron, rolled or hammered, comprising flats not less than one inch or more than seven inches wide, nor less than one-quarter of an inch or more than two inches thick; rounds not less than one-half an inch nor more than four inches in diameter; and squares not less than one-half an inch nor more than four inches square, not exceeding in value the sum of fifty dollars per ton, two dollars per ton; exceeding in value the sum of fifty dollars per ton, three dollars per ton; Iron.

On bar iron, rolled or hammered, comprising flats less than one-quarter of an inch thick or more than seven inches wide; rounds less than one-half an inch or more than

(a) See United States v. One hundred and Twelve Casks of Sugar. 8 Pet. 277.

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four inches in diameter, and squares less than one-half an inch or more than four inches square, five dollars per ton ;

On all iron imported in bars for railroads and inclined planes made to patterns and fitted to be laid down on such roads or planes without further manufacture, one dollar and fifty cents per ton ;

On boiler or other plate iron, five dollars per ton ;

On iron wire, drawn and finished, not more than one-fourth of an inch in diameter nor less than number sixteen, wire gauge, one dollar per one hundred pounds ; over number sixteen and not over number twenty-five, wire gauge, one dollar and fifty cents per one hundred pounds ; over or finer than number twenty-five, wire gauge, two dollars per one hundred pounds : *Provided*, That wire covered with cotton, silk or other material, shall pay five cents per pound in addition to the foregoing rates ;

On hollow-ware, glazed or tinned, one-half cent per pound ;

On sadirons, tailors' and hatters' irons, stoves and stove plates, one-fourth of one cent per pound ;

On band and hoop iron and slit rods, and all other descriptions of rolled or hammered iron, not otherwise provided for, five dollars per ton ;

On cut nails and spikes, one-fourth of one cent per pound ;

On iron cables or cable chains, or parts thereof, seventy-five cents per one hundred pounds : *Provided*, That no chains made of wire or rods of a diameter less than one-half of one inch shall be considered a chain cable ;

On anvils, one dollar per one hundred pounds ;

On anchors, or parts thereof, fifty cents per one hundred pounds ;

On wrought board nails, spikes, rivets, bolts, bed-screws and wrought hinges, one-fourth of one cent per pound ;

On chains, trace chains, halter chains and fence chains, made of wire or rods, not under one-fourth of one inch in diameter, one-fourth of one cent per pound ; under one-fourth of one inch in diameter and not under number nine, wire gauge, one-half of one cent per pound ; under number nine, wire gauge, five per centum ad valorem ;

On blacksmiths' hammers, and sledges, and axles, or parts thereof, one-half of one cent per pound ;

On horseshoe nails, one cent per pound ;

On steam, gas and water tubes, and flues of wrought iron, one-fourth of one cent per pound ;

On wrought iron railroad chairs, and wrought iron nuts and washers, ready punched, five dollars per ton ;

On smooth or polished sheet iron, by whatever name designated, one-half cent per pound ;

On sheet iron, common or black, not thinner than number twenty, wire gauge, three dollars per ton ; thinner than number twenty, and not thinner than number twenty-five, wire gauge, four dollars per ton ; thinner than number twenty-five, wire gauge, five dollars per ton ;

On tin plates, galvanized, galvanized iron or iron coated with any metal by electric batteries, one-half cent per pound ;

On locomotive tire, or parts thereof, one cent per pound ;

On mill-irons and mill-cranks of wrought iron, and wrought iron for ships, steam-engines and locomotives, or parts thereof, weighing each twenty-five pounds or more, one-fourth of one cent per pound ;

On screws, commonly called wood-screws, one cent and a half per pound ;

On screws, washed or plated, and all other screws of iron, except wood-screws, five per centum ad valorem ;

On all manufactures of iron, not otherwise provided for, five per centum ad valorem ;

On cast iron steam, gas and water pipes, twenty-five cents per one hundred pounds ; on all other castings of iron, not otherwise provided for, nor exempted from duty, five per centum ad valorem : *Provided*, That the following descriptions of iron, manufactures of iron and manufactures of steel shall not be subject to any additional duty or rates of duty under the provisions of this act, that is to say : iron in pigs ; cast iron butts and hinges ; old scrap iron ; malleable iron and malleable iron castings, not otherwise provided for ; cut-tacks, brads and sprigs ; cross-cut, mill, pit and drag saws ;

On steel in ingots, bars, sheets or wire, not less than one-fourth of an inch in diameter, valued at seven cents per pound or less, one-fourth of one cent per pound ; valued at above seven cents per pound and not above eleven cents per pound, one-half cent per pound ; valued above eleven cents per pound, and on steel wire and steel in any form, not otherwise provided for, five per centum ad valorem ;

Steel.

On skates valued at twenty cents or less per pair, two cents per pair; when valued at over twenty cents per pair, five per centum ad valorem; 14 July 1862.

On iron squares, marked on one side, two cents and a half per pound; on all other squares made of iron or steel, five cents per pound;

On files, rasps and floats of all descriptions, two cents per pound, and in addition thereto, five per centum ad valorem;

On all manufactures of steel, or of which steel shall be a component part, not otherwise provided for, five per centum ad valorem: *Provided*, That no allowance or reduction of duties for partial loss or damage shall be hereafter made in consequence of rust of iron or steel, or upon the manufactures of iron or steel, except on polished Russia sheet iron;

On bituminous coal, ten cents per ton of twenty-eight bushels, eighty pounds to the bushel; on all other coal, ten cents per ton of twenty-eight bushels, eighty pounds to the bushel;

On coke and culm of coal, five per centum ad valorem.

Coke.

47. From and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

Ibid. § 4.

On copper rods, bolts, nails, spikes, copper bottoms, copper in sheets or plates, called braziers' copper, and other sheets and manufactures of copper, not otherwise provided for, five per centum ad valorem; Copper.

On zinc, spelter and teutenegue, unmanufactured, in blocks or pigs, twenty-five cents per one hundred pounds;

On zinc, spelter and teutenegue, in sheets, one-half of one cent per pound;

Zinc, &c.

On lead, in pipes, and shot, three-fourths of one cent per pound;

Lead.

On brass, in bars or pigs, and old brass, fit only to be remanufactured, five per centum ad valorem. Brass.

48. From and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected and paid on the goods, wares and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

Ibid. § 5.

Acid, boracic, five cents per pound; citric, ten cents per pound; oxalic, four cents per pound; sulphuric, one cent per pound; tartaric, twenty cents per pound; gallic, fifty cents per pound; tannic, twenty-five cents per pound. Acids.

Alum, patent alum, alum substitute, sulphate of alumina and aluminous cake, sixty cents per one hundred pounds; Alum.

Argols, or crude tartar, six cents per pound; cream tartar, ten cents per pound;

Argols.

Asphaltum, three cents per pound;

Asphaltum.

Balsam copaiva, twenty cents per pound; Peruvian, fifty cents per pound; tolu, thirty cents per pound; Balsam copaiva.

Blanc fixe, enamelled white, satin white or any combination of barytes and acid, two cents and a half per pound; Blanc fixe.

Barytes and sulphate of barytes, five mills per pound;

Barytes.

Burning fluid, fifty cents per gallon;

Burning fluid.

Bitter apples, colocynth or colocynthida, ten cents per pound;

Bitter apples.

Borax, crude, or tincal, five cents per pound; refined, ten cents per pound;

Borax.

Borate of lime, five cents per pound;

Borate of lime.

Buchu leaves, ten cents per pound;

Buchu leaves.

Camphor, crude, thirty cents per pound; refined, forty cents per pound;

Camphor.

Cantharides, fifty cents per pound;

Cantharides.

Cloves, fifteen cents per pound; cassia, fifteen cents per pound; cassia buds, twenty cents per pound; cinnamon, twenty-five cents per pound;

Cloves and spices.

Cayenne pepper, twelve cents per pound; ground, fifteen cents per pound; black pepper, twelve cents per pound; ground, fifteen cents per pound; white pepper, twelve cents per pound; ground, fifteen cents per pound; Pepper.

Cocculus Indicus, ten cents per pound;

Cocculus Indicus

Cuttle-fish bone, five cents per pound;

Cuttle-fish bone

Cubebs, ten cents per pound;

Cubebs.

Dragon's blood, ten cents per pound;

Dragon's blood.

Emery, ore or rock, six dollars per ton; manufactured, ground or pulverized, one cent per pound; Emery.

Ergot, twenty cents per pound;

Ergot.

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Salts.	Epsom salts, one cent per pound ; glauher salts, five mills per pound ; Rochelle salts, fifteen cents per pound ;
Essences.	Fruit ethers, essences or oils of apple, pear, peach, apricot, strawberry and raspberry, made of fusil oil, or of fruit, or imitations thereof, two dollars and fifty cents per pound ;
Paints.	French green, Paris green, mineral green, carmine lake, wood lake, dry carmine, Venetian red, vermilion, mineral blue, Prussian blue, chrome yellow, rose pink, extract of resin or analine colors, Dutch pink and paints and painters' colors, (except white and red lead and oxide of zinc,) dry or ground in oil, and moist water colors, used in the manufacture of paper hangings and colored papers and cards, not otherwise provided for, twenty-five per centum ad valorem ;
Ginger.	Ginger root, five cents per pound ; ginger ground, eight cents per pound ;
Gold and silver leaf.	On gold leaf, one dollar and fifty cents per package of five hundred leaves ; on silver leaf, seventy-five cents per package of five hundred leaves ;
Gums.	Gum aloes, six cents per pound ; benzoin, ten cents per pound ; sandarac, ten cents per pound ; shellac, ten cents per pound ; mastic, fifty cents per pound ; copal, kowrie, damar and all gums used for like purposes, ten cents per pound ;
Honey.	Honey, fifteen cents per gallon ;
Iodine.	Iodine, crude, fifty cents per pound ; resublimed, seventy-five cents per pound ;
Ipecacuanha.	Ipecacuanha, or ipecac, fifty cents per pound ;
Jalap.	Jalap, fifty cents per pound ;
Licorice.	Licorice root, one cent per pound ; paste or juice, five cents per pound ; Litharge, two and one-fourth cents per pound ;
Magnesia.	Magnesia, carbonate, six cents per pound ; calcined, twelve cents per pound ;
Manna.	Manna, twenty-five cents per pound ;
Nitrate of soda.	Nitrate of soda, one cent per pound ;
Morphine.	Morphine and its salts, two dollars per ounce ;
Mace and nutmeg.	Mace and nutmeg, thirty cents per pound ;
Ochres.	Ochres and ochrey earths, not otherwise provided for, when dry, fifty cents per one hundred pounds ; when ground in oil, one dollar and fifty cents per one hundred pounds ;
Oils.	Oils, fixed or expressed, croton, fifty cents per pound ; almonds, ten cents per pound ; bay or laurel, twenty cents per pound ; castor, fifty cents per gallon ; mace, fifty cents per pound ; olive, not salad, twenty-five cents per gallon ; salad, fifty cents per gallon ; mustard, not salad, twenty-five cents per gallon ; salad, fifty cents per gallon ; Oils, essential, or essence, anise, fifty cents per pound ; almonds, one dollar and fifty cents per pound ; amber, crude, ten cents per pound ; rectified, twenty cents per pound ; bay leaves, seventeen dollars and fifty cents per pound ; bergamot, one dollar per pound ; cajeput, twenty-five cents per pound ; caraway, fifty cents per pound ; cassia, one dollar per pound ; cinnamon, two dollars per pound ; cloves, one dollar per pound ; citronella, fifty cents per pound ; cognac or cœnanthic ether, two dollars per ounce ; cubels, one dollar per pound ; fennel, fifty cents per pound ; juniper, twenty-five cents per pound ; lemons, fifty cents per pound ; orange, fifty cents per pound ; origanum, or red thyme, twenty-five cents per pound ; roses, or otto, one dollar and fifty cents per ounce ; thyme, white, thirty cents per pound ; valerian, one dollar and fifty cents per pound ; all other essential oils, not otherwise provided for, fifty per centum ad valorem ;
Opium.	Opium, two dollars per pound ; Opium, prepared for smoking, eighty per centum ad valorem ;
Paraffine.	Paraffine, ten cents per pound ;
Paris white.	Paris white, when dry, sixty cents per one hundred pounds ; when ground in oil, one dollar and fifty cents per one hundred pounds ;
Pimento.	Pimento, twelve cents per pound ; when ground, fifteen cents per pound ;
Potash, &c.	Potash, bichromate, three cents per pound ; hydriodate, iodate, iodide and acetate, seventy-five cents per pound ; prussiate, yellow, five cents per pound ; prussiate, red, ten cents per pound ; chlorate, six cents per pound ;
Petroleum, &c.	Petroleum and coal illuminating oil, crude, ten cents per gallon ; refined, or kerosene, produced from the distillation of coal, asphaltum, shale, peat, petroleum or rock oil, or other bituminous substances, used for like purposes, twenty cents per gallon ;
Putty.	Putty, one dollar and fifty cents per one hundred pounds ;
Quinine.	Quinine, sulphate of, and other salts of quinine, forty-five per centum ad valorem ;
Rhubarb.	Rhubarb, fifty cents per pound ;
Rose leaves.	Rose leaves, fifty cents per pound ;
Rum oil.	Rum essence or oil, and bay rum essence or oil, two dollars per ounce ;
Saltpetre.	Saltpetre, or nitrate of potash, crude, two cents per pound ; refined, three cents per pound ;
Seeds.	Seeds, anise, five cents per pound ; star anise, ten cents per pound ; canary, one dollar per bushel of sixty pounds ; caraway, three cents per pound ; cardamom, fifty cents per

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pound; cummin, five cents per pound; coriander, three cents per pound; fennel, two cents per pound; fenugreek, two cents per pound; hemp, one-half cent per pound; mustard, brown, three cents per pound; white, three cents per pound; rape, one cent per pound; castor seeds or beans, thirty cents per bushel.

Sugar of lead, four cents per pound;

Sugar of lead.

Tartar emetic, fifteen cents per pound;

Tartar emetic.

Varnish, valued at one dollar and fifty cents or less per gallon, fifty cents per gallon, and twenty per centum ad valorem; valued at above one dollar and fifty cents per gallon, fifty cents per gallon, and twenty-five per centum ad valorem;

Varnish.

Vanilla beans, three dollars per pound;

Vanilla beans.

Verdigris, six cents per pound;

Verdigris.

Whiting, when dry, fifty cents per one hundred pounds; when ground in oil, one dollar and fifty cents per one hundred pounds;

Whiting.

Acetous, benzoic, muriatic and pyroligneous acids, cutch or catechu, orchil and cudbear, safflower and sumac, ten per centum ad valorem;

Acids.

Arsenic in all forms, ammonia, and sulphate and carbonate of ammonia; bark, cinchona, Peruvian, Lima, Calisaya, quilla and all other medicinal barks, flowers, leaves, plants, roots and seeds, not otherwise provided for; cobalt and oxide of cobalt; gums, amber, Arabic, jedda, senegal, tragacanth, myrrh and all other gums and gum resins not otherwise provided for; quassia wood, smalts, sarsaparilla, tapioca, tonqua beans and sponges, twenty per centum ad valorem; acetic acid, twenty-five per centum ad valorem;

Arsenic, &amp;c.

Barks.

Gums.

Santonine and glycerine, thirty per centum ad valorem;

Glycerine.

On all pills, powders, tinctures, troches or lozenges, syrups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils or other medicinal preparations or compositions, recommended to the public as proprietary medicines, or prepared according to some private formula or secret art as remedies or specifics for any disease or diseases or affections whatever affecting the human or animal body, fifty per centum ad valorem;

Medicinal preparations.

On all essences, extracts, toilet waters, cosmetics, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth washes, dentifrices, tooth pastes, aromatic, cachous or other perfumeries or cosmetics, by whatsoever name or names known, used or applied as perfumes or applications to the hair, mouth or skin, fifty per centum ad valorem.

Essences.

49. From and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected and paid on the goods, wares and merchandise enumerated and provided for in this section, imported from foreign countries, a duty of ten per centum ad valorem, that is to say:

Ibid. § 6.

Additional ad valorem duties of ten per cent.

Antimony, crude;

or cut in such manner as to be fit for shoes, slippers, boots, bootees, gaiters and buttons, exclusively, not combined with India-rubber;

Assafoetida;

Beeswax;

Blacking of all descriptions;

Building stone of all descriptions, not otherwise provided for;

Calomel;

Catsup;

Civet, oil

Cobalt ores;

Extract of indigo; extract of madder; extract and decoctions of logwood, and other dyewoods;

Flints, and flint, ground;

Flocks, waste or shoddy;

Furs, dressed, when not on the skin;

Garancine;

Ginger, preserved or pickled;

Green turtle;

Grindstones, unwrought, or wrought or finished;

Guttapercha, unmanufactured;

Isinglass or fish glue;

Japanned ware of all kinds, not otherwise provided for;

Lastings, mohair cloth, silk, twist or other manufacture of cloth woven, or made in patterns of such size, shape and form,

Mats of cocoa-nut;

Matting china, and other floor matting, and mats made of flags, jute or grass;

Manufactures of guttapercha;

Milk of India-rubber;

Medicinal preparations not otherwise provided for;

Music, printed with lines, bound or unbound;

Musical instruments of all kinds, and strings for musical instruments of whipgut or catgut, and all other strings of the same material;

Nickel;

Osier or willow, prepared for basket makers' use;

Philosophical apparatus and instruments;

Plaster of Paris, when ground;

Quills;

Strychnine;

Staves for pipes, hogsheds or other casks;

Teeth, manufactured;

Thread lace and insertings;

Woollen listings.

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	50. In addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say:
Chocolate.	On chocolate and cocoa prepared, one cent per pound;
Copperas.	On copperas, green vitriol or sulphate of iron, one-fourth cent per pound;
Oils.	On linseed, flax-seed, hemp-seed and rape-seed oil, three cents per gallon;
Soda.	On saleratus and bicarbonate of soda, one-half cent per pound;
	On caustic soda, one-half cent per pound;
Salt.	On salt, in sacks, barrels, other packages or in bulk, six cents per one hundred pounds;
Soaps.	On soap, fancy, scented, honey, cream, transparent and all descriptions of toilet and shaving soap, two cents per pound; all other soap, five per centum ad valorem;
Turpentine.	On spirits of turpentine, five cents per gallon;
Starch.	On starch of all descriptions, one-half cent per pound;
White lead, &c.	On white and red lead, dry or ground in oil, fifteen cents per one hundred pounds;
Oxide of zinc.	On oxide of zinc, dry or ground in oil, twenty-five cents per one hundred pounds.
Ibid. § 8.	51. From and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected and paid on the goods, wares and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:
Anchovies.	On anchovies, preserved in salt, thirty per centum ad valorem;
Andirons.	On andirons, made of cast iron, one cent and one-fourth per pound;
Barley.	On barley, pearl or hulled, one cent per pound;
Bonnets, &c.	On bonnets, hats and hoods for men, women and children, composed of straw, chip, grass, palm-leaf, willow or any other vegetable substance, or of silk, hair, whalebone or other material, not otherwise provided for, forty per centum ad valorem;
Braids, &c.	On braids, plaits, flats, laces, trimmings, sparterre, tissues, willow sheets and squares, used for making or ornamenting hats, bonnets and hoods, composed of straw, chip, grass, palm-leaf, willow or any other vegetable substance, or of hair, whalebone or other material, not otherwise provided for, thirty per centum ad valorem;
Books, &c.	On books, periodicals, pamphlets, blank-books, bound or unbound, and all printed matter, engravings, bound or unbound, illustrated books and papers, and maps and charts, twenty per centum ad valorem: <i>Provided</i> , That all imported cotton and linen rags for the manufacture of paper shall be free of duty;
Bristles.	On bristles, ten cents per pound;
Candles, &c.	On candles and tapers, stearine and adamantine, five cents per pound; on spermaceti, paraffine and wax candles and tapers, pure or mixed, eight cents per pound; on all other candles and tapers, two and one-half cents per pound;
Chicory.	On chicory root, two cents per pound; on chicory ground, burnt or prepared, three cents per pound;
Coffee substitutes.	On acorn coffee and dandelion root, raw or prepared, and all other articles used or intended to be used as coffee, or a substitute for coffee, and not otherwise provided for, three cents per pound;
Coloring.	On coloring for brandy, fifty per centum ad valorem;
Cork.	On cork wood, unmanufactured, thirty per centum ad valorem; on corks, fifty per centum ad valorem;
Cotton.	On cotton, one-half cent per pound;
Feathers.	On feathers and downs for beds or bedding, of all descriptions, thirty per centum ad valorem;
	On ostrich, vulture, cock and other ornamental feathers, crude or not dressed, colored or manufactured, twenty per centum ad valorem; when dressed, colored or manufactured, forty per centum ad valorem;
Flowers.	On feathers and flowers, artificial and parts thereof, of whatever material composed, not otherwise provided for, forty per centum ad valorem;
Fire-crackers.	On fire-crackers, fifty cents per box of forty packs, not exceeding eighty to each pack; and in the same proportion for a greater number;
Plants and seeds.	On fruit, shade, lawn and ornamental trees, shrubs, plants and bulbous roots and flower seeds, not otherwise provided for, thirty per centum ad valorem;
Gloves.	On gloves, made of skins or leather, forty per centum ad valorem;
Gunpowder.	On gunpowder and all explosive substances used for mining, blasting, artillery or sporting purposes, valued at less than twenty cents per pound, six cents per pound; valued at twenty cents or over per pound, six cents per pound and twenty per centum ad valorem in addition thereto;

On garden seeds and all other seeds for agricultural and horticultural purposes, not otherwise provided for, thirty per centum ad valorem;	14 July 1902.
On hides, raw, and skins of all kinds, (a) whether dried, salted or pickled, ten per centum ad valorem;	Hides and skins.
On hollow-ware and vessels of cast iron, not otherwise provided for, one cent and one-fourth per pound;	Cast iron ware.
On hops, five cents per pound;	Hops.
On human hair, raw, uncleaned and not drawn, twenty per centum ad valorem; when cleaned or drawn, but not manufactured, thirty per centum ad valorem; when manufactured, forty per centum ad valorem;	Hair.
On lead ore, one dollar per one hundred pounds;	Lead ore.
On marble, white, statuary, in block, rough or squared, seventy-five cents per cubic foot; veined marble, and marble of all other descriptions not otherwise provided for, in block, rough or squared, forty per centum ad valorem;	Marble, &c.
On all manufactures of marble, marble slabs, marble paving tiles, and marble sawed, dressed or polished, fifty per centum ad valorem;	
On manufactures of bladders, thirty per centum ad valorem;	Bladders.
On manufactures of India-rubber and silk, or of India-rubber and silk and other materials, fifty per centum ad valorem;	India-rubber, &c.
On mustard, ground, in bulk, twelve cents per pound; when enclosed in glass or tin, sixteen cents per pound;	Mustard, &c.
On plates engraved, of steel, copper, wood or any other material, twenty-five per centum ad valorem;	Plates.
On plumbago or black lead, ten dollars per ton;	Plumbago.
On potatoes, twenty-five cents per bushel;	Potatoes.
On percussion caps, fulminates, fulminating powders and all articles used for like purposes, not otherwise provided for, thirty per centum ad valorem;	Fulminates.
On playing cards, valued at twenty-five cents or less per pack, fifteen cents per pack; valued above twenty-five cents per pack, twenty-five cents per pack;	Playing cards.
On pens, metallic, ten cents per gross;	Pens.
On pen-holder tips, metallic, ten cents per gross;	
On pen-holders, complete, ten cents per dozen;	
On lead pencils, one dollar per gross;	Lead pencils.
On rice, cleaned, one cent and a half per pound; paddy, three-quarters of one cent per pound; uncleaned rice, one cent per pound;	Rice, &c.
On sago and sago flour, one cent and a half per pound;	Sago.
On sheathing copper, and sheathing metal or yellow metal not wholly of copper nor wholly or in part of iron, ungalvanized, in sheets forty-eight inches long and fourteen inches wide, and weighing from fourteen to thirty-four ounces per square foot, three cents per pound; (b)	Sheathing metal.
On tin in pigs, bars or blocks, fifteen per centum ad valorem;	Tin.
On tin in plates or sheets,terne and tagger tin, twenty-five per centum ad valorem; on oxide, muriatic and salts of tin and tin foil, thirty per centum ad valorem;	
52. In addition to the duties heretofore imposed by law on the articles hereinafter mentioned and included in this section, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:	Ibid. § 9.
On Wilton, Saxony and Aubusson, Axminster, patent velvet, Tournay velvet and tapestry velvet carpets and carpeting, Brussels carpets wrought by the Jacquard machine, and all medallion or whole carpets, five cents per square yard; on Brussels and tapestry Brussels carpets and carpeting, printed on the warp or otherwise, three cents per square yard; on all treble-ingrain and worsted chain Venetian carpets and carpetings, three cents per square yard; on hemp or jute carpeting, two cents per square yard; on all other kinds of carpets and carpetings, of wool, flax or cotton, or parts of either or other material (except druggets, bookings, and felt carpets and carpetings), not otherwise provided for, five per centum ad valorem: <i>Provided</i> , That mats, rugs, screens, covers, hassocks, bedsides and other portions of carpets or carpeting shall pay the rate of duty herein imposed on carpets and carpeting of similar character; on all other mats, screens, hassocks and rugs, five per centum ad valorem;	Carpets.
On woollen cloths, woollen shawls, and all manufactures of wool, of every description, made wholly or in part of wool, not otherwise provided for, a duty of six cents per pound, and, in addition thereto, five per centum ad valorem;	Woollen goods.
On goods of like description, when valued at over one dollar per square yard, or	

(a) See *Coggill v. Lawrence*, 1 Blatch. 802. *De Forest v. Lawrence*, 13 How. 274, 280.

(b) This embraces "sheets of zinc" of the specified form and size. Dec. Dep. 28 Oct. 1867.



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weighing less than twelve ounces per square yard, a duty of six cents per pound, and, in addition thereto, ten per centum ad valorem;

On endless belts or felts for paper, and blanketing for printing machines, five per centum ad valorem;

On flannels, of all descriptions, five per centum ad valorem;

On hats of wool, ten per centum ad valorem;

On woollen and worsted yarn, of all descriptions, five per centum ad valorem;

Clothing.

On clothing ready made, and wearing apparel of every description, composed wholly or in part of wool, made up or manufactured wholly or in part by the tailor, seamstress or manufacturer, six cents per pound, and, in addition thereto, five per centum ad valorem: *Provided*, That Balmoral skirts, or goods of like description, or used for like purposes, made wholly or in part of wool, shall be subjected to the same duties that are levied upon ready-made clothing;

Blankets.

On blankets of all kinds, made wholly or in part of wool, five per centum ad valorem:

Delaines, &amp;c.

On all delaines, cashmere delaines, muslin delaines, barege delaines, composed wholly or in part of worsted, wool, mohair or goats' hair, and on all goods of similar description, not exceeding in value forty cents per square yard, two cents per square yard;

Worsted goods.

On bunting, worsted yarns, and on all other manufactures of worsted or of which worsted shall be a component material, not otherwise provided for, five per centum ad valorem;

Oil cloth.

On oil cloth for floors, stamped or printed, of all descriptions, five per centum ad valorem;

Matting.

On coir floor matting and carpeting, five per centum ad valorem.

Ibid. § 10.

53. From and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say:

Cotton goods.

I. On all manufactures of cotton, bleached or unbleached, and not colored, stained, painted or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling and exceeding in weight five ounces per square yard, one-fourth of one cent per square yard; on finer or lighter goods of like description, not exceeding one hundred and forty threads to the square inch, counting the warp and filling, one-half cent per square yard; on goods of like description, exceeding one hundred and forty threads, and not exceeding two hundred threads to the square inch, counting the warp and filling, three-fourths of one cent per square yard; on like goods, exceeding two hundred threads to the square inch, counting the warp and filling, one cent per square yard; on all goods embraced in the foregoing schedules (except jeans, denimes, drillings, bedtickings, gingham, plaids, cottonades, pantaloons stuffs and goods of like description, not exceeding in value the sum of sixteen cents per square yard), if printed, painted, colored or stained, they shall be considered to have been bleached goods, and there shall be levied, collected and paid a duty of one cent per square yard, in addition to the rates of duty provided for bleached goods. *Provided*, That upon all plain woven cotton goods, not included in the foregoing schedules, and upon cotton goods of every description, the value of which shall exceed sixteen cents per square yard, there shall be levied, collected and paid a duty of five per centum ad valorem: *And provided further*, That no cotton goods, having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads.

II. On spool and other thread of cotton, ten per centum ad valorem.

III. On shirts and drawers, wove or made on frames, composed wholly of cotton and cotton velvet, five per centum ad valorem.

IV. On all cotton jeans, denimes, drillings, bedtickings, gingham, plaids, cottonades, pantaloons stuffs and goods of like description, not exceeding in value the sum of sixteen cents per square yard, two cents per square yard; and on all manufactures composed wholly of cotton, bleached, unbleached, printed, painted or dyed, not otherwise provided for, five per centum ad valorem.

Linen goods.

V. On all brown or bleached linens, ducks, canvas paddings, cot-bottoms, burlaps, drills, coatings, brown hollands, blay linens, damasks, diapers, crash, huckabacks, handkerchiefs, lawns or other manufactures of flax, jute or hemp (or of which flax, jute or hemp shall be the component material of chief value), five per centum ad valorem; on flax or linen threads, twine and packthread, and all other manufactures of flax, or of which flax shall be the component material of chief value, and not otherwise provided for, five per centum ad valorem.

Ibid. § 11.

54. From and after the day and year aforesaid, in addition to the duties heretofore

imposed by law on the articles hereinafter mentioned and provided for in this section, there shall be levied, collected and paid on the goods, wares and merchandise herein enumerated, imported from foreign countries, the following duties and rates of duty, that is to say: 14 July 1862

On jute, Sisal grass, sun hemp, coir and other vegetable substances not enumerated, Jute, &c. (except flax, tow of flax, Russia and manilla hemp, and codilla, or tow of hemp,) five dollars per ton;

On jute butts, one dollar per ton;

On tarred cables, or cordage, one-fourth of one cent per pound;

Cordage.

On untarred manilla cordage, one-fourth of one cent per pound;

On all other untarred cordage, one-half cent per pound;

On hemp yarn, one cent per pound;

Yarn.

On coir yarn, one-half cent per pound;

On seines, one-half cent per pound;

On cotton bagging, or other manufactures not otherwise provided for, suitable for the uses to which cotton bagging is applied, whether composed in whole or in part of hemp, jute or flax, or any other material valued at less than ten cents per square yard, three-fourths of one cent per pound; over ten cents per square yard, one cent per pound; Cotton bagging.

On sail duck, five per centum ad valorem;

On Russia and other sheetings, made of flax or hemp, brown and white, five per centum ad valorem; Flax and hemp.

On all other manufactures of hemp, or of which hemp shall be a component part, not otherwise provided for, five per centum ad valorem;

On grass cloth, five per centum ad valorem;

On jute yarns, five per centum ad valorem;

On all other manufactures of jute or Sisal grass, not otherwise provided for, five per centum ad valorem: *Provided*, That all hemp, or preparations of hemp used for naval purposes by the government of the United States, shall be of American growth or manufacture: *Provided further*, The same can be obtained of as good quality and at as low a price.

55. From and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected and paid on the goods, wares and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say: Ibid. § 12.

On all brown earthenware and common stoneware, gas retorts, stoneware not ornamented and stoneware above the capacity of ten gallons, twenty per centum ad valorem Earthenware, &c.

On China and porcelain ware, gilded, ornamented or decorated in any manner, forty per centum ad valorem;

On China and porcelain ware, plain white, and not decorated in any manner, and all other earthen, stone or crockery ware, white, glazed, edged, printed, painted, dipped or cream-colored, composed of earthy or mineral substances, (a) and not otherwise provided for, thirty-five per centum ad valorem; China ware.

Slates, slate pencils, slate chimney-pieces, mantels, slabs for tables and all other manufactures of slate, forty per centum ad valorem; Slates.

On unwrought clay, pipe clay, fire clay and kaoline, five dollars per ton;

Clay.

On fuller's earth, three dollars per ton;

On white chalk, four dollars per ton; on red and French chalk, ten per centum ad valorem; on chalk of all descriptions, not otherwise provided for, twenty-five per centum ad valorem. Chalk.

On all plain and mould and press glassware, (b) not cut, engraved or painted, thirty per centum ad valorem; Glass.

On all articles of glass, cut, engraved, painted, (c) colored, (d) printed, stained, silvered or gilded, not including plate-glass silvered, or looking-glass plates, thirty-five per centum ad valorem;

On fluted, rolled or rough plate-glass, not including crown, cylinder, broad or common window glass, not exceeding ten by fifteen inches, seventy-five cents per one hundred square feet; above that, and not exceeding sixteen by twenty-four inches, one cent per square foot; above that, and not exceeding twenty-four by thirty inches, one cent and a half per square foot; all above that, two cents per square foot: *Provided*, That all fluted, rolled or rough plate-glass, weighing over one hundred pounds per one hundred square feet, shall pay an additional duty on the excess at the same rates herein imposed;

(a) This embraces "lava gas burners." Doc. Dep. 16 June 1858.

(b) See *Binns v. Lawrence*, 12 How. 19.

(c) This includes "paintings on glass." Doc. Dep. 29 March 1859.

(d) This includes "glass imported in long round pieces of different colors intended for the manufacture of buttons," &c. Doc. Dep. 3 Dec. 1859.

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On all cast polished plate-glass, unsilvered, not exceeding ten by fifteen inches, three cents per square foot; above that, and not exceeding sixteen by twenty-four inches, five cents per square foot; above that, and not exceeding twenty-four by thirty inches, eight cents per square foot; above that, and not exceeding twenty-four by sixty inches, twenty-five cents per square foot; all above that, fifty cents per square foot;

On all cast polished plate-glass, silvered, or looking-glass plates, exceeding ten by fifteen inches, four cents per square foot; above that, and not exceeding sixteen by twenty-four inches, six cents per square foot; above that, and not exceeding twenty-four by thirty inches, ten cents per square foot; above that, and not exceeding twenty-four by sixty inches, thirty-five cents per square foot; all above that, sixty cents per square foot: *Provided*, That no looking-glass plates, or plate-glass silvered, when framed, shall pay a less rate of duty than that imposed upon similar glass, of like description, not framed, but shall be liable to pay, in addition thereto, thirty per centum ad valorem upon such frames;

On porcelain and Bohemian glass, glass crystals for watches, paintings on glass or glasses, pebbles for spectacles, and all manufactures of glass, or of which glass shall be a component material, except crown, cylinder and other window glass, not otherwise provided for, and all glass bottles or jars filled with sweetmeats, preserves, thirty-five per centum ad valorem.

Ibid. § 13.

Additional ad  
valorem duties  
of five per cent.

56. From and after the day and year aforesaid, in addition to the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected and paid on the goods, wares and merchandise enumerated and provided for in this section, imported from foreign countries, a duty of five per centum ad valorem, that is to say:

Argentine, alabatta or German silver, manufactured or unmanufactured;

Articles embroidered with gold, silver or other metal;

Articles worn by men, women or children, of whatever material composed, made up or made wholly or in part by hand, not otherwise provided for;

Britannia ware;

Baskets, and all other articles composed of grass, osier, palm leaf, straw, whalebone or willow, not otherwise provided for;

Bracelets, braids, chains, curls or ringlets composed of hair, or of which hair is a component material;

Braces, suspenders, webbing or other fabrics composed wholly or in part of India-rubber, not otherwise provided for;

Brooms and brushes of all kinds;

Canes and sticks for walking, finished or unfinished;

Capers, pickles and sauces of all kinds, not otherwise provided for;

Caps, hats, muffs and tippets of fur, and all other manufactures of fur, or of which fur shall be a component material.

Caps, gloves, leggins, mits, socks, stockings, wove shirts and drawers, and all similar articles made on frames, of whatever material composed, worn by men, women and children, and not otherwise provided for;

Card cases, pocket books, shell boxes, souvenirs, and all similar articles, of whatever material composed;

Carriages and parts of carriages;

Clocks and parts of clocks;

Clothing, ready made, and wearing apparel of whatever description, of whatever material composed, except wool, made

up or manufactured wholly or in part by the tailor, seamstress or manufacturer;

Coach and harness furniture of all kinds, saddlery, coach and harness hardware, silver plated, brass plated or covered, common tinned, burnished or japanned, not otherwise provided for;

Combs of all kinds;

Compositions of glass or paste, when set;

Composition tops for tables, or other articles of furniture;

Comfits, sweetmeats or fruits preserved in sugar, brandy or molasses, not otherwise provided for;

Cotton cords, gimps and galloons;

Cotton laces, cotton insertings, cotton trimming laces and cotton braids, colored or uncolored;

Court-plaster;

Cutlery of all kinds;

Dolls and toys of all kinds;

Encaustic tiles;

Epaulets, galloons, laces, knots, stars, tassels, tresses and wings, of gold, silver or other metal;

Fans and fire-screens of every description, of whatever material composed;

Frames and sticks for umbrellas, parasols and sunshades, finished or unfinished;

Furniture, cabinet and household;

Furs, dressed;

Hair pencils;

Hat bodies of cotton or wool, or of which wool is the component material of chief value;

Hair cloth, hair seatings and all other manufactures of hair, not otherwise provided for;

Ink, printers' ink, and ink powder;

Japanned, patent or enamelled leather, or skins, of all kinds;

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- Jet and manufactures of jet, and imitations thereof;
- Leather, tanned, of all descriptions;
- Macaroni, vermicelli, gelatine, jellies and all similar preparations;
- Manufactures of bone, shell, horn, ivory or vegetable ivory;
- Manufactures of paper, or of which paper is a component material, not otherwise provided for;
- Manufactures of the bark of the cork tree, except corks;
- Manufactures, articles, vessels and wares, not otherwise provided for, of gold, silver, copper, brass, iron, steel, lead, pewter, tin or other metal, or of which either of these metals or any other metal shall be the component material of chief value; (a)
- Manufactures not otherwise provided for, composed of mixed materials, in part of cotton, silk, wool or worsted, hemp, jute, or flax;
- Manufactures of cotton, linen, silk or worsted, if embroidered or tamboured, in the loom or otherwise, by machinery or with the needle or other process, not otherwise provided for;
- Manufactures of cedar wood, granadilla, ebony, mahogany, rosewood and satin wood;
- Manufactures and articles of leather, or of which leather shall be a component part, not otherwise provided for;
- Manufactures, articles and wares of papier mache;
- Manufactures of goats' hair or mohair, or of which goats' hair or mohair shall be a component material, not otherwise provided for;
- Manufactures of wood, or of which wood is the chief component part, not otherwise provided for;
- Morocco skins;
- Muskets, rifles and other fire-arms;
- Needles, sewing, darning, knitting, and all other descriptions;
- Oil cloth of every description, of whatever material composed, not otherwise provided for;
- Paper boxes, and all other fancy boxes;
- Paper envelopes;
- Paper-hangings and paper for screens or fire-boards;
- Paper, antiquarian, demy, drawing, elephant, foolscap, imperial, letter and all other paper, not otherwise provided for;
- Pins, solid head or other;
- Plated and gilt ware of all kinds;
- Prepared vegetables, meats, fish, poultry and game, sealed or unsealed, in cans or otherwise;
- Ratans and reeds, manufactured or partially manufactured;
- Roofing slates;
- Scagliola tops for tables or other articles of furniture;
- Sealing-wax;
- Side arms of every description;
- Silver-plated metal, in sheets or other form;
- Stereotype plates;
- Still bottoms;
- Twines and packthread, of whatever material composed, not otherwise provided for;
- Type metal;
- Types, new;
- Umbrellas, parasols and sunshades;
- Velvet, when printed or painted;
- Wafers;
- Water colors;
- Watches and parts of watches, and watch materials and unfinished parts of watches;
- Webbing, composed of wool, cotton, flax or any other materials, not otherwise provided for.

57. From and after the day and year aforesaid, there shall be levied, collected and paid on all goods, wares and merchandise of the growth or produce of countries beyond the Cape of Good Hope, when imported from places this side of the Cape of Good Hope, a duty of ten per cent. ad valorem, [and] in addition to the duties imposed on any such articles when imported directly from the place or places of their growth or production. (b)

58. All goods, wares and merchandise which may be in the public stores or bonded warehouse on the first day of August 1862, may be withdrawn for consumption upon payment of the duties now imposed thereon by law, provided the same shall be so withdrawn within three months from the date of original importation; (c) but all goods, wares and merchandise which shall remain in the public stores or bonded warehouse for more than three months from the date of original importation, if withdrawn for consumption, and all goods on shipboard on the first day of August 1862, shall be subject to the duties prescribed by this act: *Provided*, That all goods which now are or may be deposited in public store or bonded warehouse after this act takes effect and goes into operation, must be withdrawn therefrom, or the duties thereon paid within one year from the date of original importation, but may be withdrawn by the owner for exportation to foreign countries, or may be transhipped to any port of the Pacific or western coast of the United States at any time before the expiration of three years from

Ibid. § 14.

Additional duties on certain imports.

Ibid. § 21.

What duties to be paid on goods in the public stores.

(a) This includes "hollow-ware." Dec. Dep. 12 July 1861.

(b) See act 3 March 1863, § 1. 12 Stat. 742.

(c) By act 3 March 1863, § 2, to be exempt from any additional duty for two years. 12 Stat. 742.

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the date of original importation; such goods on arrival at a Pacific or western port, as aforesaid, to be subject to the same rules and regulations as if originally imported there; any goods remaining in public store or bonded warehouse beyond three years shall be regarded as abandoned to the government, and sold under such regulations as the secretary of the treasury may prescribe, and the proceeds paid into the treasury: *Provided further*, That merchandise upon which duties have been paid may remain in warehouse in custody of the officers of the customs at the expense and risk of the owners of said merchandise, and if exported directly from said custody to a foreign country within three years, shall be entitled to return duties, proper evidence of such merchandise having been landed abroad to be furnished to the collector by the importer, one per centum of said duties to be retained by the government: *And provided further*, That all drugs, medicines and chemical preparations, entered for exportation and deposited in warehouse or public store, may be exported by the owner or owners thereof in the original package, or otherwise, subject to such regulations as shall be prescribed by the secretary of the treasury: *And provided further*, That the third or last proviso to the fifth section of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt and for other purposes," approved the sixth [fifth] day of August 1861, be and the same is hereby repealed; and no return of the duties shall be allowed on the export of any merchandise after it has been removed from the custody and control of the government; but nothing herein contained shall be held to apply to or repeal section thirty of the act entitled "An act to provide for the payment of outstanding treasury notes, to authorize a loan, to regulate and fix the duties on imports and for other purposes," approved March 2d 1861, or section four of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt and for other purposes," approved August 5th 1861.

Ibid. § 22.

Foreign vessels of war may purchase from warehouses free of duty.

Ibid. § 23.

Repeal of inconsistent laws

59. That the privilege of purchasing supplies from the public warehouses, duty free, be extended, under such regulations as the secretary of the treasury shall prescribe, to the vessels of war of any nation in ports of the United States, which may reciprocate such privilege towards the vessels of war of the United States in its ports.

60. That all acts and parts of acts repugnant to the provisions of this act be and the same are hereby repealed: *Provided*, That the existing laws shall extend to and be in force for the collection of the duties imposed by this act, for the prosecution and punishment of all offences and for the recovery, collection, distribution and remission of all fines, penalties and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter and thing to that effect, in the existing laws contained, had been inserted in and re-enacted by this act.

3 March 1863 § 5.  
12 Stat. 742.

Duty on printing paper.  
Seedlac.  
Polishing powders.

61. In lieu of the duties now imposed by law there shall be levied and collected upon printing paper unsized, used for books and newspapers exclusively, twenty per centum ad valorem; upon seedlac and sticklac the same duties now imposed upon gum shellac; upon polishing powders, of all descriptions, Frankfort black, and Berlin, Chinese, fig and wash blue, twenty-five per centum ad valorem.

Ibid. § 6.

Crude petroleum, &c.

62. From and after the passage of this act, the duty on petroleum and coal illuminating oil, crude and not refined, when imported from foreign countries in a crude state, shall be twenty per centum ad valorem, and no more.

## IV. ENTRY OF GOODS IMPORTED.

14 July 1862 § 16.  
12 Stat. 553.

Allowance for tare, how estimated.

63. In estimating the allowance for tare on all chests, boxes, cases, casks, bags or other envelope or covering of all articles imported liable to pay any duty, where the original invoice is produced at the time of making entry thereof, and the tare shall be specified therein, it shall be lawful for the collector, if he shall see fit, or for the collector and naval officer, if such officer there be, if they shall see fit, with the consent of the consignees, to estimate the said tare according to such invoice; but in all other cases the real tare shall be allowed, and may be ascertained under such regulations as the secretary of the treasury may from time to time prescribe; but in no case shall there be any allowance for draft.

Ibid. § 18.

Duties of consuls, &c.

64. It shall be the duty of consuls and commercial agents of the United States, having any knowledge or belief of any case or practice of any person or persons who obtain or should obtain verification of invoices as described in the preceding section, (a) whereby the revenue of the United States is or may be defrauded, to report the facts to the collector of the port where the revenue is or may be defrauded, or to the secretary of the treasury of the United States.

14 July 1862 § 3.  
12 Stat. 572.

Entry of goods imported from Canada.

65. Goods imported under the reciprocity treaty with Great Britain may be entered at any port on the northern, north-eastern and north-western frontiers of the United States, upon satisfactory evidence being given to the collector at the port where such

(a) Supplied *infra* 57.

goods are offered for entry, that they are of the growth or production of Canada, without the consular certificate now required.

14 July 1862.

66. For every entry of goods at any custom-house on the northern, north-eastern and north-western frontiers of the United States, a fee of forty cents shall be charged by the collector, and accounted for to the government.

Ibid. § 4.

Fees for such entry.

67. From and after the first day of July 1863, all invoices of goods, wares and merchandise imported from any foreign country into the United States shall be made in triplicate, and signed by the person or persons owning or shipping said goods, wares or merchandise, if the same have actually been purchased, or by the manufacturer or owner thereof, if the same have been procured otherwise than by purchase, or by the duly authorized agent of such purchaser, manufacturer or owner; and said invoices shall, at or before the shipment thereof, be produced to the consul, vice consul or commercial agent of the United States nearest the place of shipment for the use of the United States, and shall have indorsed thereon, when so produced, a declaration signed by said purchaser, manufacturer, owner or agent, setting forth that said invoice is in all respects true; that it contains (if the goods, wares and merchandise mentioned therein are subject to ad valorem duty, and were obtained by purchase) a true and full statement of the time when and the place where the same were purchased, and the actual cost thereof, and of all charges thereon; and that no discounts, bounties or drawbacks are contained in said invoice but such as have actually been allowed thereon; and when obtained in any other manner than by purchase, the actual market value thereof at the time and place when and where the same were procured or manufactured; and if subject to specific duty, the actual quantity thereof; and that no different invoice of the goods, wares or merchandise, mentioned in the invoice so produced has been or will be furnished to any one. If said goods, wares or merchandise have been actually purchased, said declaration shall also contain a statement that the currency in which said invoice is made out is the currency which was actually paid for said goods, wares or merchandise by the purchaser. And the person so producing said invoice shall at the same time declare to said consul, vice consul or commercial agent the port in the United States at which it is intended to make entry of said goods, wares or merchandise; whereupon the said consul, vice consul or commercial agent shall indorse upon each of said triplicates a certificate, under his hand and official seal, stating that said invoice has been produced to him, with the date of such production, and the name of the person by whom the same was produced, and the port in the United States at which it shall be the declared intention to make entry of the goods, wares or merchandise therein mentioned. And thereupon the said consul, vice consul or commercial agent shall deliver to the person producing the same one of said triplicates, to be used in making entry of said goods, wares or merchandise; shall file another in his office, to be there carefully preserved; and shall, as soon as practicable, transmit the remaining one to the collector of the port of the United States at which it shall be declared to be the intention to make entry of said goods, wares or merchandise. And no goods, wares or merchandise imported into the United States from any foreign place or country after said first day of July 1863, shall be admitted to an entry unless the invoice presented shall in all respects conform to the requirements hereinbefore mentioned, and shall have thereon the certificate of the consul, vice consul or commercial agent hereinbefore specified, nor unless said invoice be verified at the time of making such entry by the oath or affirmation of the owner or consignee, or the authorized agent of the owner or consignee thereof, certifying that the said invoice and the declaration thereon are in all respects true, and were made by the person by whom the same purports to have been made, nor, except as hereinafter provided, unless the triplicate transmitted by said consul, vice consul or commercial agent to the collector shall have been received by him. And if any such owner, consignee or agent of any goods, wares or merchandise shall knowingly make or attempt to make an entry thereof by means of any false invoice, or false certificate of a consul, vice consul or commercial agent, or of any invoice which shall not contain a true statement of all the particulars hereinbefore required, or by means of any other false or fraudulent document or paper, or of any other false or fraudulent practice or appliance whatsoever, said goods, wares and merchandise, or their value, shall be forfeited and disposed of as other forfeitures for violation of the revenue laws: *Provided*, That where, from a change of the destination of any such goods, wares or merchandise, after the production of the invoice thereof to the consul, vice consul or commercial agent, as hereinbefore provided, or from other cause, the triplicate transmitted to the collector of the port to which such goods, wares or merchandise were originally destined, shall not have been received at the port where the same actually arrive, and where it is desired to make entry thereof, said goods, wares and merchandise may be admitted to an entry on the execution by the owner, consignee or agent of

3 March 1863 § 1.  
12 Stat. 737.

Invoices to be in triplicate.

To be indorsed by consul.

How triplicate invoices to be disposed of.

No goods to be admitted to entry without such certified invoice.

Penalty for making entry by means of false invoices, &c.

When entry may be made by giving bond.

8 March 1863.

Powers of the  
secretary.Remission of for-  
feitures.

a bond, with sufficient security, in double the amount of duty apparently due, conditioned for the payment of the duty which shall be found to be actually due thereon. And it shall be the duty of the collector of the port where such entry shall be made immediately to notify the consul, vice consul or commercial agent, to whom such invoice shall have been produced, to transmit to such collector a certified copy thereof; and it shall be the duty of such consul, vice consul or commercial agent to transmit the same accordingly without delay; and said duty shall not be finally liquidated until such triplicate, or a certified copy thereof, shall have been received: *Provided*, That such liquidation shall not be delayed longer than eighteen months from the time of making such entry: *And provided further*, That when, from accident or other cause, it shall be impracticable for the person desiring to make entry of any goods, wares or merchandise, to produce, at the time of making such entry, any invoice thereof, as hereinbefore required, it shall be lawful for the secretary of the treasury to authorize the entry of such goods, wares or merchandise upon such terms and in accordance with such general or special regulations as he may prescribe. And the secretary of the treasury is hereby invested with the like powers of remission in cases of forfeiture arising under this act, as in other cases of forfeiture under the revenue laws: *And provided further*, That the provisions of this act shall not apply to countries where there is no consul, vice consul or commercial agent of the United States; nor shall anything herein contained be construed to require for goods imported under the reciprocity treaty with Great Britain, signed June 5th 1854, any other consular certificate than is now required by law. And this act shall be construed only to modify and not repeal the act of March 1st 1823, entitled "An act supplementary to and to amend an act, entitled 'An act to regulate the collection of duties on imports and tonnage,' passed March 2d 1799, and for other purposes;" and the form of oaths therein set forth shall be modified accordingly: *And provided further*, That the provisions of this act shall not apply to invoices of goods, wares or merchandise imported into any port of the United States from any place beyond Cape Horn, or the Cape of Good Hope, until the first day of January 1864.

## V. LANDING, INSPECTION AND DELIVERY.

2 March 1861 § 1.  
12 Stat. 209.When collector  
to take posses-  
sion of goods re-  
maining on  
board.

68. Whenever any goods, wares or merchandise shall be imported into any port of the United States from any foreign port, in any ship or vessel, at the expiration of eight working days, if the ship or vessel shall be less than three hundred tons burden, and within twelve working days, if it be of three hundred tons burden and less than eight hundred, and within fifteen days, if it be of eight hundred tons burden and upwards, after the time within which the report of the master or person having charge or command of any ship or vessel is required to be made to the collector of the district, if there shall be found any goods, wares or merchandise other than shall have been reported for some other district, or some foreign port or place, the collector shall take possession thereof; but with the consent of the owner or consignee of any goods, wares or merchandise, or with the consent of the owner or master of the vessel in which the same may be imported, the said goods, wares or merchandise may be taken possession of by the collector, after one day's notice to the collector of the district.

## VI. WAREHOUSING.

14 July 1862 § 20.  
12 Stat. 559.When additional  
duty to be levied.

69. That the sixth section of an act entitled "An act to extend the warehousing system by establishing private bonded warehouses, and for other purposes," (a) be and the same is hereby amended, so that the additional duty of one hundred per centum shall not apply to the invoice or appraised value of the merchandise withdrawn, but shall be so construed as to require for failure to transport and deliver within the time limited, a duty to be levied and collected of double the amount [to] which said goods, wares and merchandise would be liable upon the original entry thereof.

## VII. DRAWBACK.

3 March 1863 § 7.  
12 Stat. 742.Drawback on  
gunpowder.

70. There shall be allowed a drawback on foreign saltpetre, manufactured into gunpowder in the United States and exported therefrom, equal in amount to the duty paid on the foreign saltpetre from which it shall be manufactured, to be ascertained under such regulations as shall be prescribed by the secretary of the treasury, and no more: *Provided*, That ten per centum on the amount of all drawbacks so allowed shall be retained for the use of the United States by the collectors paying such drawbacks respectively.

## VIII. COLLECTION OF DUTIES.

13 July 1861 § 1.  
12 Stat. 255.In case of ob-  
struction at port  
of entry, duties

71. Whenever it shall in the judgment of the president, by reason of unlawful combinations of persons in opposition to the laws of the United States, become impracticable to execute the revenue laws and collect the duties on imports by the ordinary means, in the ordinary way, at any port of entry in any collection district, he is authorized to

(a) Ante 389, pl. 301.

cause such duties to be collected at any port of delivery in said district until such obstruction shall cease; and in such case the surveyors at said ports of delivery shall be clothed with all the powers, and be subject to all the obligations of collectors at ports of entry; and the secretary of the treasury, with the approbation of the president, shall appoint such number of weighers, gaugers, measurers, inspectors, appraisers and clerks as may be necessary, in his judgment, for the faithful execution of the revenue laws at said ports of delivery, and shall fix and establish the limits within which such ports of delivery are constituted ports of entry as aforesaid; and all the provisions of law regulating the issue of marine papers, the coasting trade, the warehousing of imports and collection of duties, shall apply to the ports of entry so constituted, in the same manner as they do to ports of entry established by the laws now in force.

13 July 1861.

may be collected at any port of delivery.  
Officers at such ports.

Limits.

Ibid. § 2.

In certain cases, custom-houses may be established at any place, on land or on shipboard.

Duties of collector.

Vessel may proceed to unobstructed port.

Regulations to be established.

Ibid. § 3.

Protection of officers.

Army and navy may be employed.

Ibid. § 4.

Ports may be closed by proclamation.

Penalty for entering or attempting to enter such ports.

Ibid. § 7.

Navy may be used to enforce the revenue laws.

Ibid. § 8.

Secretary may remit forfeitures and penalties.

Ibid. § 9.

Jurisdiction of the federal courts.

72. If, from the cause mentioned in the foregoing section, in the judgment of the president, the revenue from duties on imports cannot be effectually collected at any port of entry in any collection district, in the ordinary way, and by the ordinary means, or by the course provided in the foregoing section, then and in that case he may direct that the custom-house for the district be established in any secure place within said district, either on land, or on board any vessel in said district, or at sea near the coast; and in such case the collector shall reside at such place, or on shipboard, as the case may be, and there detain all vessels and cargoes arriving within or approaching said district, until the duties imposed by law on said vessels and their cargoes are paid in cash: *Provided*, That if the owner or consignee of the cargo on board any vessel detained as aforesaid, or the master of said vessel shall desire to enter a port of entry in any other district in the United States where no such obstructions to the execution of the laws exist, the master of such vessel may be permitted so to change the destination of the vessel and cargo in his manifest, whereupon the collector shall deliver him a written permit to proceed to the port so designated: *And provided further*, That the secretary of the treasury shall, with the approbation of the president, make proper regulations for the enforcement on shipboard of such provisions of the laws regulating the assessment and collection of duties as in his judgment may be necessary and practicable.

73. It shall be unlawful to take any vessel or cargo detained as aforesaid from the custody of the proper officers of the customs, unless by process of some court of the United States; and in case of any attempt otherwise to take such vessel or cargo by any force, or combination, or assemblage of persons, too great to be overcome by the officers of the customs, it shall and may be lawful for the president, or such person or persons as he shall have empowered for that purpose, to employ such part of the army or navy or militia of the United States, or such force of citizen volunteers as may be deemed necessary, for the purpose of preventing the removal of such vessel or cargo, and protecting the officers of the customs in retaining the custody thereof.

74. If, in the judgment of the president, from the cause mentioned in the first section of this act, the duties upon imports in any collection district cannot be effectually collected by the ordinary means and in the ordinary way, or in the mode and manner provided in the foregoing sections of this act, then and in that case the president is hereby empowered to close the port or ports of entry in said district, and in such case give notice thereof by proclamation; and thereupon all right of importation, warehousing and other privileges incident to ports of entry shall cease and be discontinued at such port so closed, until opened by the order of the president on the cessation of such obstructions; and if, while said ports are so closed, any ship or vessel from beyond the United States, or having on board any articles subject to duties, shall enter or attempt to enter any such port, the same, together with its tackle, apparel, furniture and cargo, shall be forfeited to the United States.

75. In the execution of the provisions of this act, and of the other laws of the United States providing for the collection of duties on imports and tonnage, it may and shall be lawful for the president, in addition to the revenue cutters in service, to employ in aid thereof such other suitable vessels as may in his judgment be required.

76. The forfeitures and penalties incurred by virtue of this act may be mitigated or remitted in pursuance of the authority vested in the secretary of the treasury by the act entitled "An act providing for mitigating or remitting the forfeitures, penalties and disabilities accruing in certain cases therein mentioned," approved March 3d 1797, or in cases where special circumstances may seem to require it, according to regulations to be prescribed by the secretary of the treasury.

77. Proceedings on seizures for forfeitures under this act may be pursued in the courts of the United States in any district into which the property so seized may be taken and proceedings instituted; and such courts shall have and entertain as full jurisdiction over the same as if the seizure was made in that district.



## IX. FRAUDS ON THE REVENUE.

3 March 1863 § 2.  
12 Stat. 739.

Duties of solicitor  
of the treasury.

Collectors to re-  
port seizures.

Clerks.

*Ibid.* § 3.

Penalty for mak-  
ing entry by  
false representa-  
tions.

*Ibid.* § 4.

Penalty for ad-  
mitting fraudu-  
lent entries.

For accepting  
fees, &c.

*Ibid.* § 5.

When goods may  
be released on  
payment of  
value.

*Ibid.* § 6.

Penalty for offer-  
ing gratuities to  
officers.

*Ibid.* § 7.

Seizure of books  
and papers.

*Ibid.* § 8.

Penalty for wil-  
ful concealment  
or destruction of  
books or papers.

78. The solicitor of the treasury, under direction of the secretary of the treasury, shall take cognisance of all frauds or attempted frauds upon the revenue, and shall exercise a general supervision over the measures for their prevention and detection, and for the prosecution of persons charged with the commission thereof; and it shall be the duty of the collectors of the several collection districts of the United States to report to him all seizures of goods, wares or merchandise made by them, as soon as practicable after the same are made, with written statements of the facts upon which such seizures are based. And for the purpose of enabling the solicitor of the treasury to perform the duties hereby enjoined upon him, the secretary of the treasury is hereby authorized to employ not more than three clerks, in addition to those now assigned to the office of the solicitor by law, for such time and at such rates of compensation as he may deem for the public interest, and prescribe the compensation to be allowed to such clerks, not exceeding the amount now allowed to clerks of like class; said compensation shall be paid in the same manner as other expenses of collecting the revenue.

79. If any person shall, by the exhibition of any false sample, or by means of any false representation or device, or by collusion with any officer of the revenue, or otherwise, knowingly effect or aid in effecting an entry of any goods, wares or merchandise at less than the true weight or measure thereof, or upon a false classification thereof as to quality or value, or by the payment of less than the amount of duty legally due thereon, such person shall, upon conviction thereof, be fined in any sum not exceeding five thousand dollars, or be imprisoned not exceeding two years, or both, at the discretion of the court.

80. If any officer of the revenue shall, by collusion with any importer or other person, or by means of any false weight or measure, or of any false classification as to quality or value of any goods, wares or merchandise, or by any other means whatever, knowingly admit, or aid in admitting, to entry, any such goods, wares or merchandise, upon the payment of less than the amount of duty legally due thereon; or shall knowingly accept from any person engaged in the importation of goods, wares or merchandise into the United States, or interested as principal, clerk or agent in any such importation, or in the entry of any goods, wares or merchandise, any fee, gratuity or emolument whatsoever; such officer shall, on conviction thereof, be removed from office, and shall be fined in any sum not exceeding five thousand dollars, or be imprisoned not exceeding two years, at the discretion of the court.

81. The collectors of the several districts of the United States, in all cases of seizure of any goods, wares or merchandise, for violation of the revenue laws, the appraised value of which, in the district wherein such seizure shall be made, shall not exceed one thousand dollars, he and they are hereby authorized, subject to the approval of the secretary of the treasury, to release such goods on payment of the appraised value thereof.

82. If any person who shall be engaged in the importation of goods, wares or merchandise into the United States, or who shall be interested as principal, clerk or agent in the entry of any goods, wares or merchandise, shall at any time make, or offer to make, to any officer of the revenue, any gratuity or present of any money or other thing of value, such person shall, on conviction thereof, be fined in any sum not exceeding five thousand dollars, or be imprisoned not exceeding two years, at the discretion of the court.

83. Whenever it shall be made to appear, by affidavit, to the satisfaction of the district judge of any district within the United States, that any fraud on the revenue has been at any time actually committed or attempted by any person or persons interested or in any way engaged in the importation or entry of merchandise at any port within the United States, said judge shall forthwith issue his warrant, directed to the collector of the port at which the merchandise, in respect to which said alleged frauds have been committed or attempted, has been imported or entered, directing said officer, or his duly authorized agents or assistants, to enter any place or premises where any invoices, books or papers relating to such merchandise or fraud are deposited, and to take and carry the same away to be inspected; and any invoices, books or papers so received or taken shall be retained by the officer receiving the same, for the use of the United States, so long as the retention thereof may be necessary, subject to the control and direction of the solicitor of the treasury.

84. If any person shall wilfully conceal or destroy any invoice, book or paper relating to any merchandise liable to duty which has been or shall hereafter be imported into the United States from any foreign port or country, after an inspection thereof shall have been demanded by the collector of any collection district within the United States, or shall at any time conceal or destroy any such invoice, book or paper, for the purpose

of suppressing any evidence of fraud therein contained, such person shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding two years, or both, at the discretion of the court. 3 March 1863.

Under the tariff of 1846, ad valorem duties are to be paid on the quantity of goods actually imported, not on the amount put up in the foreign country. *Austin v. Peaslee*, 20 Law Rep. 443; 8 C. 13 Leg. Int. 12.

Where such quantity is measured by weight, a loss of weight on the voyage, whether by drainage or evaporation, will proportionally diminish the duties, notwithstanding that what is lost in weight may be gained in value. *Ibid*.

The act of 1823 (364, pl. 185) excepts from the act of 1799 (409, pl. 386) the case of an importer who is the manufacturer of the goods, or who has obtained them otherwise than by purchase, and requires of him an invoice stating the true market value. *United States v. Twenty-six Bales of Rubber Boots*, 20 Law Rep. 444.

Notice of sale, in cases of condemnation under the act of 1799 (412, pl. 397) must be published every day for 15 days, in the newspapers directed by the act. *The Hornet*, 1 Abbott 67.

The discharge of cargo into lighters, is not an unloading and delivery within purview of the act of 2 March 1799 § 50 (378, pl. 248). And after such discharge, by general order, the consignee should be allowed to make a post entry of goods not in the manifest. *United States v. The Express*, 21 Law Rep. 41.

Under the 66th section of the collection act (410, pl. 388), the concealment of goods which works a forfeiture, need not be with the concurrence, knowledge or consent of the owner or consignee. *United States v. 54,950 Cigars*, 21 Law Rep. 267.

Such forfeiture may be enforced before the time has passed for the owner to enter the goods: a subsequent offer, within such time, to enter them, cannot affect the forfeiture, though made as soon as the owner was aware of their arrival. *Ibid*.

By the act 3 March 1851 (370, pl. 221), all goods subject to an ad valorem duty are to be appraised at the period of exportation, and this includes goods obtained otherwise than by purchase. The 17th sect. of the act of 1842 (369, pl. 213) must, since the passage of the act of 1851, be held to point out the mode and consequences of all appraisements of imports, whether procured by purchase or otherwise. *Forman v. Peaslee*, 21 Law Rep. 273. See *Belcher v. Lawrason*, 21 How. 251.

The secretary of the treasury has no power to direct the collectors to discontinue the delivery of the certificates required by the 41st sect. of the act 2 March 1799 (372, pl. 229-30) except on payment of fees. Their object is to prevent illegal importations, and the secretary has no right to withhold the certificate on which the burden of proof depends. *Foster v. Peaslee*, 21 Law Rep. 341.

The 8th section of the act 28 March 1854 (389, pl. 303) is prospective only in its operation. *Phillips v. The United States*, 15 Leg. Int. 356.

Caustic soda, bearing a nearer resemblance to soda ash than to carbonate of soda, is liable to a duty of four per cent. only, under the act 30 August 1842 § 20 (364, pl. 144) which is still in force. *Gamble v. Mason*, 7 Am. L. R. 178.

Whether a non-enumerated article bears a similitude in material, quality, texture or use, to one which is enumerated, is a question of fact for the jury. *Ibid*.

In order to maintain an action against a collector for duties paid under protest, the plaintiff must satisfy the jury that he has fully complied with all the requirements of the statute, both as to form and substance. *Ibid*.

If a certificate of probable cause for a seizure be not made until more than two years after the decision of the cause, and after suit brought, it will only be granted on payment of the claimant's costs and expenses. *United States v. The Recorder*, 2 Blatch. 119.

The collector can only be made responsible for the loss of goods deposited in the public warehouse, on proof of personal negligence; and such negligence is not to be inferred from the mere loss of the goods. *Brisac v. Lawrence*, 2 Blatch. 121.

The act 2 March 1821 (361-2, pl. 176-8) is not repealed by the act of 1842; it does not require either a formal entry, or an invoice: the system established by it, is a distinct one, applicable to the frontiers adjacent to foreign countries. *United States v. Smith*, 2 Blatch. 127.

The act of 1846 does not vary the mode of ascertaining the quantity of merchandise imported; that is still to be determined

by the 58th and 59th sections of the act 2 March 1799 (358, pl. 159-61). *Wilson v. Maxwell*, 2 Blatch. 316.

The importer of soap in boxes, is not to be allowed, in addition to the ten per cent. allowed for tare, the actual weight of the boxes: the dutiable weight is that of the soap and boxes with an allowance of ten per cent. for tare. *Ibid*.

But an erroneous entry at a valuation based upon the net weight, after deducting the weight of the boxes, does not subject the importer to the additional duty or penalty of 20 per cent. imposed by the act of 1846. *Ibid*.

Imported goods are to be appraised at their real market value abroad, in cash, not in a foreign depreciated paper currency. *Loewenstein v. Maxwell*, 2 Blatch. 401.

The additional penal duty of 20 per cent. is not incurred, in consequence of the quantity being greater than that stated in the entry, if the value be correctly reported. *Manhattan Gas Light Co. v. Maxwell*, 2 Blatch. 405.

An accepted order for goods is not a purchase within the meaning of the 16th section of the act 30 August 1842 (368, pl. 212). The date of the invoice is *prima facie* evidence of the time and place of purchase. *Pierson v. Lawrence*, 2 Blatch. 495. *Focke v. Lawrence*, *Ibid*. 508.

The act 30 August 1842 § 17 (360, pl. 213) applied to goods imported and entered by the manufacturer; but the distinction made between goods manufactured and those procured by purchase was abolished by the act of 1857 (371, pl. 224). *Belcher v. Lawrason*, 21 How. 252.

By the act 2 March 1857 (366, pl. 200), if an invoice or package of imported goods contain some articles which are indecent or obscene, and others which are not, the whole are liable to forfeiture. The indecent articles are to be destroyed, the others to be sold. *United States v. One Case of Stereoscopic Slides*, *Sprague* 467.

But in order to work a forfeiture of the entire package, it must be averred in the pleadings, and found by the jury, that the indecent articles were a part of it. *Ibid*.

Where goods are seized as forfeited under the act of 1799, and delivered to the claimant on his giving bond for the appraised value under the 89th section (411, pl. 395), such appraisement must include the regular duties levied on the goods. *United States v. Mayox*, 16 Leg. Int. 388. But not the amount of penal duties to which they might be subjected, by reason of being invoiced more than 10 per cent. below their market value. *United States v. Robinson*, *Ibid*.

If the penal duty of 20 per cent. be levied, the goods cannot be forfeited under the 66th section of the act of 1799; but if the collector be satisfied that the undervaluation in the invoice has been made with intent to evade the duties, instead of levying the additional duty, a forfeiture may be declared. *United States v. Sixty-seven Packages*, 17 How. 94. If such additional duty have been wrongfully exacted, notwithstanding the pendency of an information for a forfeiture, the claimants will be entitled to a return of the amount out of the proceeds of the goods forfeited. *United States v. Robinson*, 16 Leg. Int. 388.

Under the act 3 March 1841 (328, pl. 53), collectors of customs are entitled to whatever sums they may receive for rent and storage, not exceeding \$2000 per annum, in addition to the compensation allowed by the act of 7 May 1822 (327, pl. 45-6) from the sources of emolument prescribed by that act. *United States v. Walker*, 22 How. 299.

The duties upon foreign merchandise are to be computed on their value on the day of the sailing of the vessel from the foreign port. *Irvine v. Redfield*, 23 How. 170.

If dutiable goods be wrecked, and strewn upon the shore, by force of the winds and waves, they are liable to duties only upon their value, as they lie upon the shore. If worthless in that condition, they are subject to no duty. *United States v. Cook*, *Sprague* 213.

To subject a person to indictment under the 71st section of the act of 1790 (410, pl. 391) for carrying away goods, alleged to be under seizure, a seizure must have been *lawfully* made, and possession taken and continued by the officer; and the accused must have carried away the goods forcibly, knowing them to be under seizure. *Ibid*.

## Indiana.

### 1. Terms of the circuit and district courts.

#### I. CIRCUIT AND DISTRICT COURTS.

1. Instead of the times now fixed by law, the circuit and district courts of the United States for the district of Indiana shall be held on the first Tuesdays of May and November. And all recognisances, indictments or other proceedings, civil and criminal, now pending in either of said courts, shall be entered and have day in court, and be heard and tried, according to the times of holding such courts as herein provided. 20 Feb. 1863 § 1. 12 Stat. 657.

Terms of the circuit and district courts.

# Indians.

## I. INDIAN AGENTS.

1. How appointed in Texas.
2. Indian agents in California. Supervisors and laborers.
3. Additional agents.
4. Superintendent in Washington territory.
5. Additional agents.
6. Tribes partly in two superintendencies.
7. Indian agent in Colorado.
8. Salary of superintendents in California.
9. Secretary to appoint special agents, &c.
10. Salaries of agents in Nevada and Utah.

## II. INDIAN LANDS.

11. Number of reservations in California to be increased.
12. Tract to be surveyed in Arizona.
13. Tracts to be reserved for the Pimas and Maricopas.
14. Civilized Indians to be protected in their lands.
15. Trespasses by non-civilized Indians, how compensated.

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## III. TRADE AND INTERCOURSE WITH THE INDIANS.

17. Unauthorized persons may be removed from Indian reservations.
18. Execution of process in the Indian country.
19. Commissioner to prepare a code of regulations. To be submitted to congress.
20. Trespasses by Indians on whites not to be compensated out of the territory.
21. Sale of liquors to Indians punished. Powers of superintendent and agents. Proceedings in case of seizure. Indians may be witnesses.

## IV. MISCELLANEOUS PROVISIONS.

22. Purchase of goods.
23. Settlements, how made, with incompetent or orphan Indians.

## I. INDIAN AGENTS.

11 June 1858 § 3.  
11 Stat. 363.

1. The superintendent and agents within the superintendency of Texas shall be hereafter appointed in the same manner as other superintendents and agents, appointed and confirmed.

19 June 1860 § 1.  
12 Stat. 57.

Indian agents in  
California.

2. The secretary of the interior may divide the state of California into two Indian districts, and the president of the United States, by and with the advice and consent of the senate, shall appoint a superintending agent for each district, at a salary of thirty-six hundred dollars per annum, who, upon executing a bond upon such terms and in such sum and security as the secretary of the interior may prescribe, shall have under his control and management, as the secretary may prescribe, the Indians and reservations in their separate respective districts. Each superintendent may appoint, subject to the confirmation of the secretary of the interior, a supervisor for each reservation in his respective district, to instruct the Indians in husbandry, at a salary of eighteen hundred dollars per annum; and also appoint not exceeding four laborers, to aid such supervisor, at a compensation not to exceed fifty dollars per month.

Supervisors and  
laborers.

25 June 1860 § 1.  
2 Stat. 113.

Additional  
agents.

3. That there be appointed by the president of the United States, by and with the advice and consent of the senate, three additional agents for the Indian service, at an annual salary of fifteen hundred dollars each; one for the Indians in the territory of New Mexico, one for the "Ponca" tribe, and one for the "Pawnees," in the territory of Nebraska.

8 Feb. 1861 § 1.  
12 Stat. 130.

Superintendent  
in Washington  
territory.

4. That the president be and he is hereby authorized to make a separate superintendency of Washington territory, and to appoint, by and with the advice and consent of the senate, or during the recess thereof, and until the end of its next session after such appointment, a superintendent of Indian affairs for said territory, with an annual salary of twenty-five hundred dollars.

Ibid. § 2.

Additional  
agents.

5. That the president be and he is hereby authorized to appoint, by and with the advice and consent of the senate, or during the recess thereof, and until the end of its next session after such appointment, three additional Indian agents for said territory, with an annual salary of fifteen hundred dollars each: *Provided*, That no agent or sub-agent, either special or temporary, or otherwise, shall be appointed, employed or continued in employment in Washington territory, except only the three agents and two sub-agents provided for by existing law, and the additional agents provided by this act.

Ibid. § 3.

Tribes partly in  
two superintend-  
encies.

6. The president, in adjusting the limits of the respective superintendencies of Oregon and Washington, may attach any tribe situated partly in both or either superintendency in such manner as in his judgment may best promote the public service.

1 July 1862 § 1.  
12 Stat. 498.

Indian agent in  
Colorado.

7. That the president be and is hereby authorized to appoint, by and with the advice and consent of the senate, or during the recess thereof, and until the end of its next session after such appointment, an agent for the Grand River and Wintah bands of Indians, in the territory of Colorado, at a salary of fifteen hundred dollars per annum.

5 July 1862 § 2.  
12 Stat. 529.

8. After the end of the present fiscal year the salary of the superintendent of Indian affairs for the northern and for the southern districts of California shall be three thousand dollars.

3 March 1863 § 1.  
12 Stat. 792.

9. All special agents and commissioners not appointed by the president shall be appointed by the secretary of the interior.

Ibid. § 7

10. The salaries of the Indian agents in Nevada and Utah shall hereafter be at the rate of fifteen hundred dollars per annum.

## II. INDIAN LANDS.

11. The commissioner of Indian affairs is hereby authorized, by and with the consent of the secretary of the interior, to increase the number of reservations for Indian purposes in the state of California: *Provided*, The aggregate amount of land so set apart for reservations shall not exceed one hundred and twenty-five thousand acres: *Provided further*, That for the new reservations hereby authorized, no Indian agents, sub-agents, overseers or other officers or employees shall be appointed or employed under this act.

28 Feb. 1850 § 1.  
11 Stat. 400.

Number of reservations in California, to be increased.

12. That the president of the United States be, and he hereby is, authorized and required to cause to be surveyed, and the boundaries thereof permanently marked, the tract or tracts of land lying on or near the Gila river, in the territory of Arizona, New Mexico, now occupied by the confederated bands of Pima and Maricopa Indians; and the sum of one thousand dollars is hereby appropriated to defray the expenses of the said survey.

*Ibid.* § 2.

Tract to be surveyed in Arizona.

13. That the president of the United States be, and he hereby is, authorized and required to set apart the tract or tracts of land aforesaid as a reservation for the confederated bands of Pimas and Maricopas: *Provided*, That the said reservation shall not exceed one hundred square miles in extent.

*Ibid.* § 3.

To be reserved for the Pimas and Maricopas.

14. Whenever any Indian, being a member of any band or tribe with whom the government has or shall have entered into treaty stipulations, being desirous to adopt the habits of civilized life, shall have had a portion of the lands belonging to his tribe allotted to him in severalty, in pursuance of such treaty stipulations, it shall be the duty of the agent and superintendent of such tribe to provide that such Indian shall be protected in the peaceful and quiet occupation and enjoyment of the lands so allotted to him.

14 June 1802 § 1.  
12 Stat. 427.

Civilized Indians to be protected in their lands.

15. Whenever any person of Indian blood belonging to a band or tribe who receive, or are entitled to receive, annuities from the government of the United States, and who has not adopted the habits and customs of civilized life, and received his lands in severalty by allotment, as mentioned in the foregoing section of this act, shall commit any trespass upon the lands or premises of any Indian who has received his lands by allotment, as aforesaid, it shall be the duty of the superintendent and agent of such band or tribe to ascertain the damages resulting from such trespass; and the sum so ascertained shall be withheld from the payment next thereafter to be made, either to the band or tribe to which the party committing such trespass shall belong, as in the discretion of the superintendent he shall deem proper, and the sum so retained shall be paid over by the said agent or superintendent to the party injured, with the approval of the secretary of the interior.

*Ibid.* § 2.

Trespasses by non civilized Indians, how compensated.

16. In case the trespasser shall be the chief or headman of a band or tribe, in addition to the penalties above provided for, it shall be the duty of the superintendent of Indian affairs in his district to suspend the said trespasser from his office for three months, and during that time to deprive him of all the benefits and emoluments connected therewith: *Provided*, That the said chief or headman may be sooner restored to his former standing if the superintendent shall so direct.

*Ibid.* § 3.

Penalty in case of trespass by a chief.

## III. TRADE AND INTERCOURSE WITH THE INDIANS.

17. That the commissioner of Indian affairs be, and he hereby is, authorized and required, with the approval of the secretary of the interior, to remove from any tribal reservation any person found therein without authority of law, or whose presence within the limits of the reservation may, in his judgment, be detrimental to the peace and welfare of the Indians, and to employ for the purpose such force as may be necessary to enable the agent to effect the removal of such person or persons.

12 June 1858 § 2.  
11 Stat. 332.

Unauthorized persons may be removed from Indian reservations.

18. That in executing process in the Indian country, the marshal be authorized to employ a posse comitatus, not exceeding three persons in any of the states respectively, to assist in executing process by arresting and bringing in prisoners from the Indian country, and to allow them three dollars per diem in lieu of all expenses and services.

14 June 1858 § 3.  
11 Stat. 363.

Execution of process in the Indian country.

19. The commissioner of Indian affairs, under the direction of the secretary of the interior, is hereby authorized and directed to prepare rules and regulations for the government of the Indian service, and for trade and intercourse with the Indian tribes and the regulations of their affairs; and when approved by the president shall be submitted to the congress of the United States for its approval: *Provided*, That such laws, rules and regulations proposed shall not be in force until enacted by congress.

28 Feb. 1859 § 7.  
11 Stat. 401.

Commissioner to prepare a code of regulations. To be submitted to congress.

20. That so much of the act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June 30th 1834, (a) as provides that the United States shall make indemnification out of the treasury for property taken or destroyed in certain cases, by Indians trespassing on white men as

*Ibid.* § 8.

Part of Act of 1834 repealed.

23 Feb. 1859.

described in the said act, be, and the same is hereby, repealed: *Provided however*, That nothing herein contained shall be so construed as to impair or destroy the obligation of the Indians to make indemnification out of the annuities as prescribed in said act.

13 Feb. 1862 § 1.  
12 Stat. 338.

21. That the 20th section of the "Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June 30th 1834, be, and the same is hereby, amended so as to read as follows, to wit:—

Act 30 June 1834  
§ 20 amended.  
Sale of liquors to  
Indians pun-  
ished.

"If any person shall sell, exchange, give, barter or dispose of any spirituous liquor or wine to any Indian under the charge of any Indian superintendent or Indian agent appointed by the United States, or shall introduce or attempt to introduce any spirituous liquor or wine into the Indian country, such person, on conviction thereof before the proper district court of the United States, shall be imprisoned for a period not exceeding two years, and shall be fined not more than three hundred dollars: *Provided, however*, That it shall be a sufficient defence to any charge of introducing or attempting to introduce liquor into the Indian country, if it be proved to be done by order of the war department, or of any officer duly authorized thereto by the war department. And if any superintendent of Indian affairs, Indian agent or sub-agent, or commanding officer of a military post, has reason to suspect or is informed that any white person or Indian is about to introduce or has introduced any spirituous liquor or wine into the Indian country, in violation of the provisions of this section, it shall be lawful for such superintendent, agent, sub-agent or commanding officer, to cause the boats, stores, packages, wagons, sleds and places of deposit of such person to be searched; and if any such liquor is found therein, the same, together with the boats, teams, wagons and sleds used in conveying the same, and also the goods, packages and peltries of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one half to the informer and the other half to the use of the United States: and if such person be a trader, his license shall be revoked and his bond put in suit. And it shall moreover be lawful for any person in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, except such as may be introduced therein by the war department. And in all cases arising under this act Indians shall be competent witnesses."

Powers of super-  
intendents and  
agents.Proceedings in  
case of seizure.Indians may be  
witnesses.

## IV. MISCELLANEOUS PROVISIONS.

5 July 1862 § 5.  
12 Stat. 529.

22. No goods shall be purchased by the Indian department, or its agents, for any tribe, except upon the written requisition of the superintendent in charge of the tribe, and only upon public bids in the mode prescribed by law for the purchase of other supplies.

Purchase of  
goods.

Ibid. § 6.

Settlements, how  
made, with in-  
competent or or-  
phan Indians.

23. That the secretary of the interior be, and he is hereby, directed to cause settlements to be made with all persons appointed by Indian councils to receive moneys due to incompetent or orphan Indians, and to require all moneys found to be due to said incompetent or orphan Indians to be returned to the treasury of the United States; and all moneys so returned shall bear an interest at the rate of six per centum per annum, until paid by order of the secretary of the interior to those entitled to the same; and no money shall hereafter be paid to any person or persons appointed by any Indian council to receive moneys due to incompetent or orphan Indians, but the same shall remain in the treasury of the United States, until ordered to be paid by the said secretary to those entitled to receive the same, and shall bear six per centum interest until so paid.

## Insurrection.

1. States may be proclaimed to be in insurrection. Commercial intercourse prohibited. Forfeiture of goods and vessels. President may license restricted intercourse. Custom-house officers to be appointed.

2. Vessels belonging to insurgents to be forfeited.  
3. Navy may be employed to enforce this law.  
4. Secretary may remit forfeitures and penalties.  
5. Jurisdiction of the federal courts.  
6. Militia, army, and navy may be employed to suppress insurrection, &c.

7. Proclamation to be made.  
8. Militia to be subject to articles of war. Pay and allowances.  
9. Penalty for disobedience of orders.  
10. Courts martial to be composed of militia officers only.

11. Collection of fines.  
12. Powers of marshals.  
13. Repealing section.  
14. Parts of states may be declared in insurrection.  
15. Property employed for insurrectionary purposes to be confiscated.

16. Jurisdiction of the courts.  
17. Proceedings for condemnation.

18. Slaves of rebels to be free.

19. Railroad and telegraph lines may be taken possession of. To be placed under military control.

20. Penalty for obstructing the use thereof.

21. Commissioners to assess damages.

22. Their compensation. Limitation of act.

23. Clearances may be refused on suspicion that goods are destined for a rebel port. Forfeiture for attempt to depart without clearance.

24. Collector may require bond that goods shall not be used to aid insurgents.

25. Transportation of goods may be prohibited in like cases. Security may be required from shippers. Forfeiture in case of violation.

26. Proceeding for, and remission of, penalties.

27. Distribution of penalties, &c.

28. Property of rebels to be seized for support of the army. Of what persons.

29. In what cases property of such persons to be liable to seizure. Transfers to be void.

30. Proceedings for condemnation.

31. Powers of the courts.

32. Slaves of rebels to be free.  
 33. Fugitives from labor not to be restored except on oath of owner. Military officers not to decide in slave cases.  
 34. Negroes may be employed for the suppression of the rebellion.  
 35. Colonization of freed negroes.  
 36. President may proclaim amnesty.  
 37. Judicial proceedings.  
 38. Slaves of rebels to be free.  
 39. Limitation of power to construct railroads.  
 40. President may suspend the *habeas corpus*. Effect thereof.  
 41. List of state prisoners to be furnished to the judges. When to be discharged. Penalty for refusing to discharge on judge's order. Prisoners, before discharge, to take oath of allegiance. Surety of the peace may be demanded.  
 42. Prisoners to be bailed. Proceedings on refusal to furnish list of state prisoners.  
 43. President's order to be a full defence to action for arrest, &c.  
 44. Actions may be removed to the circuit courts. Proceedings for removal. Appeals from final judgments. Powers of the circuit courts. Proceedings on failure to perfect removal. Costs.  
 45. Appeals to supreme court.  
 46. Limitation of actions.  
 47. *Bona fide* claims of loyal citizens to be paid out of confiscated property.  
 48. Agents for captured property, &c.  
 49. How appropriated.  
 50. Bonds of agents. When owner may reclaim. Jurisdiction of the court of claims.  
 51. Property brought from insurrectionary districts to be confiscated. Proceedings for condemnation. Punishment of agents.  
 52. All captured property to be delivered up.  
 53. Not to apply to naval captures.

1. Whenever the president, in pursuance of the provisions of the second section of the act entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions, and to repeal the act now in force for that purpose," approved February 28th 1795, shall have called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the president, and when said insurgents claim to act under the authority of any state or states, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such state or states, or in the part or parts thereof in which said combination exists, nor such insurrection suppressed by said state or states, then and in such case it may and shall be lawful for the president, by proclamation, to declare that the inhabitants of such state, or any section or part thereof, where such insurrection exists, are in a state of insurrection against the United States; (a) and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from said state or section into the other parts of the United States, and all proceeding to such state or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such state or section, be forfeited to the United States; (b) *Provided, however,* That the president may, in his discretion, license and permit commercial intercourse with any such part of said state or section, the inhabitants of which are so declared in a state of insurrection, in such articles and for such time, and by such persons as he, in his discretion, may think most conducive to the public interest; (c) and such intercourse, so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the secretary of the treasury. (d) And the secretary of the treasury may appoint such officers at places where officers of the customs are not now authorized by law as may be needed to carry into effect such licenses, rules and regulations; and officers of the customs and other officers shall receive for services under this section, and under said rules and regulations, such fees and compensation as are now allowed for similar service under other provisions of law.

2. From and after fifteen days after the issuing of the said proclamation, as provided in the last foregoing section of this act, any ship or vessel belonging in whole or in part to any citizen or inhabitant of said state or part of a state, whose inhabitants are so declared in a state of insurrection, found at sea, or in any port of the rest of the United States, shall be forfeited to the United States.

3. In the execution of the provisions of this act, and of the other laws of the United States providing for the collection of duties on imports and tonnage, it may and shall be lawful for the president, in addition to the revenue cutters in service, to employ in aid thereof such other suitable vessels as may, in his judgment, be required.

4. The forfeitures and penalties incurred by virtue of this act may be mitigated or remitted in pursuance of the authority vested in the secretary of the treasury by the act entitled "An act providing for mitigating or remitting the forfeitures, penalties and disabilities accruing in certain cases therein mentioned," approved March 3d 1797, or in cases where special circumstances may seem to require it, according to regulations to be prescribed by the secretary of the treasury.

5. Proceedings on seizures for forfeitures under this act may be pursued in the courts of the United States, in any district into which the property so seized may be taken and

13 July 1861 § 6.  
12 Stat. 257.

States may be proclaimed to be in insurrection.

Commercial intercourse prohibited.

Forfeitures of goods and vessels.

President may license restricted intercourse.

Custom-house officers to be appointed.

*Ibid.* § 6.

Vessels belonging to insurgents to be forfeited.

*Ibid.* § 7.

Navy may be employed to enforce this law.

*Ibid.* § 8.

Secretary may remit forfeitures and penalties.

*Ibid.* § 9.

Jurisdiction of

(a) When the president has proclaimed a state to be in insurrection, the courts must hold that this condition continues until he decides to the contrary. *United States v. One hundred and twenty-nine Packages*, 11 Am. L. R. 419.

(b) This is not a penal but a revenue statute, and is to be liberally construed so as to accomplish its proposed object. *United States v. One hundred and twenty-nine Packages*, 11 Am. L. R. 419.

(c) If a party, for fraudulent purposes, mix up prohibited goods with those not prohibited, the whole will be forfeited. *United States v. One hundred and twenty-nine Packages*, 11 Am. L. R. 419.

(d) The shipment of prohibited goods under a fraudulent invoice incurs a forfeiture under this act. *United States v. One hundred and twenty-nine Packages*, 11 Am. L. R. 419.

13 July 1861.

the federal courts.

29 July 1861 § 1.  
12 Stat. 281.

Militia, army and navy may be employed to suppress insurrection, &amp;c.

Ibid. § 2.

Proclamation to be made.

Ibid. § 3.

Militia to be subject to articles of war.

Pay and allowances.

Ibid. § 3.

Penalty for disobedience of orders.

Ibid. § 4.

Ibid. § 5.

Collection of fines.

Ibid. § 6.

Powers of marshals.

Ibid. § 7.

Repealing section.

31 July 1861 § 1.  
12 Stat. 284.

Parts of states may be proclaimed to be in insurrection.

6 August 1861 § 1.  
12 Stat. 319.

Property employed for insurrectionary purposes to be confiscated.

proceedings instituted; and such courts shall have and entertain as full jurisdiction over the same as if the seizure was made in that district.

6. Whenever, by reason of unlawful obstructions, combinations or assemblages of persons, or rebellion against the authority of the government of the United States, it shall become impracticable, in the judgment of the president of the United States, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any state or territory of the United States, it shall be lawful for the president of the United States to call forth the militia of any or all the states of the Union, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion in whatever state or territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.

7. Whenever, in the judgment of the president, it may be necessary to use the militia, force hereby directed to be employed and called forth by him, the president shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes, within a limited time.

8. The militia so called into the service of the United States shall be subject to the same rules and articles of war as the troops of the United States, and be continued in the service of the United States until discharged by proclamation of the president: *Provided*, That such continuance in service shall not extend beyond sixty days after the commencement of the next regular session of congress, unless congress shall expressly provide by law therefor: *And provided further*, That the militia so called into the service of the United States shall, during their time of service, be entitled to the same pay, rations and allowances for clothing as are or may be established by law for the army of the United States.

9. Every officer, non-commissioned officer or private of the militia, who shall fail to obey the orders of the president of the United States in any of the cases before recited, shall forfeit a sum not exceeding one year's pay, and not less than one month's pay, to be determined and adjudged by a court martial; and such officer shall be liable to be cashiered by a sentence of court martial, and be incapacitated from holding a commission in the militia for a term not exceeding twelve months, at the discretion of the court; and such non-commissioned officer and private shall be liable to imprisonment, by a like sentence, on failure of payment of the fines adjudged against them, for one calendar month for every twenty-five dollars of such fine.

10. Courts martial for the trial of militia shall be composed of militia officers only.

11. All fines to be assessed as aforesaid shall be certified by the presiding officer of the court martial, and shall be collected and paid over according to the provisions and in the manner prescribed by the 7th and 8th sections of the act of February 28th 1795, to which this is an amendment.(a)

12. The marshals of the several districts of the United States, and their deputies, shall have the same powers in executing the laws of the United States as sheriffs and their deputies in the several states have by law in executing the laws of the respective states.

13. Sections two, three and four of the act entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions, and to repeal the act now in force for those purposes," approved February 28th 1795,(b) and so much of the residue of said act and of all other acts as conflict with this act are hereby repealed.

14. The power of the president to declare the inhabitants of any state, or any part thereof, in a state of insurrection, as provided in the fifth section of the act to which this is an addition,(c) shall extend to and include the inhabitants of any state, or part thereof, where such insurrection against the United States shall be found by the president at any time to exist.

15. If, during the present or any future insurrection against the government of the United States, after the president of the United States shall have declared, by proclamation, that the laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person or persons, his, her or their agent, attorney or employee, shall purchase or acquire, sell or give, any property of whatsoever kind or description, with intent to use or employ the same, or suffer the same to be used or employed, in aiding, abetting or promoting such insurrection or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or

(a) Ante 622, pl. 23-4.

(b) Ante 621-2, pl. 18-20.

(c) Supra 1.

employ, or consent to the use or employment of the same as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the president of the United States to cause the same to be seized, confiscated and condemned. 6 August 1861.

16. Such prizes and capture shall be condemned in the district or circuit court of the United States having jurisdiction of the amount, or in admiralty in any district in which the same may be seized, or into which they may be taken and proceedings first instituted. *Ibid.* § 2. Jurisdiction of the courts.

17. The attorney-general, or any district attorney of the United States in which said property may at the time be, may institute the proceedings of condemnation, and in such case they shall be wholly for the benefit of the United States; or any person may file an information with such attorney, in which case the proceedings shall be for the use of such informer and the United States in equal parts. *Ibid.* § 3. Proceedings for condemnation.

18. Whenever hereafter, during the present insurrection against the government of the United States, any person claimed to be held to labor or service under the law of any state, shall be required or permitted by the person to whom such labor or service is claimed to be due, or by the lawful agent of such person, to take up arms against the United States, or shall be required or permitted by the person to whom such labor or service is claimed to be due, or his lawful agent, to work or to be employed in or upon any fort, navy-yard, dock, armory, ship, intrenchment, or in any military or naval service whatsoever, against the government and lawful authority of the United States, then, and in every such case, the person to whom such labor or service is claimed to be due shall forfeit his claim to such labor, any law of the state or of the United States to the contrary notwithstanding. And whenever thereafter the person claiming such labor or service shall seek to enforce his claim, it shall be a full and sufficient answer to such claim that the person whose service or labor is claimed had been employed in hostile service against the government of the United States, contrary to the provisions of this act. *Ibid.* § 4. Slaves of rebels to be free. ✓

19. That the president of the United States, when in his judgment the public safety may require it, be and he is hereby authorized to take possession of any or all the telegraph lines in the United States, their offices and appurtenances; to take possession of any or all the railroad lines in the United States, their rolling-stock, their offices, shops, buildings and all their appendages and appurtenances; to prescribe rules and regulations for the holding, using and maintaining of the aforesaid telegraph and railroad lines, and to extend, repair and complete the same, (a) in the manner most conducive to the safety and interest of the government; to place under military control all the officers, agents and employés belonging to the telegraph and railroad lines thus taken possession of by the president, so that they shall be considered as a post road and a part of the military establishment of the United States, subject to all the restrictions imposed by the rules and articles of war. 31 Jan. 1862 § 1. 12 Stat. 334. Railroad and telegraph lines may be taken possession of. ✓

20. Any attempt by any party or parties whomsoever, in any state or district in which the laws of the United States are opposed, or the execution thereof obstructed by insurgents and rebels against the United States, too powerful to be suppressed by the ordinary course of judicial proceedings, to resist or interfere with the unrestrained use by government of the property described in the preceding section, or any attempt to injure or destroy the property aforesaid, shall be punished as a military offence by death or such other penalty as a court martial may impose. *Ibid.* § 2. Penalty for obstructing the use thereof. ✓

21. Three commissioners shall be appointed by the president of the United States, by and with the advice and consent of the senate, to assess and determine the damages suffered, or the compensation to which any railroad or telegraph company may be entitled by reason of the railroad or telegraph line being seized and used under the authority conferred by this act, and their award shall be submitted to congress for their action. *Ibid.* § 3. Commissioners to assess damages. ✓

22. The compensation of each of the commissioners aforesaid shall be eight dollars per day while in actual service; and the provisions of this act, so far as it relates to the operating and using said railroads and telegraphs, shall not be in force any longer than is necessary for the suppression of this rebellion. *Ibid.* § 5. Their compensation. Limitation of act.

23. The secretary of the treasury, in addition to the powers conferred upon him by the act of the 13th July 1861, be and he is hereby authorized to refuse a clearance to any vessel or other vehicle laden with goods, wares or merchandise, destined for a foreign or domestic port, whenever he shall have satisfactory reason to believe that such goods, wares or merchandise, or any part thereof, whatever may be their ostensible destination, are intended for ports or places in possession or under control of insurgents against the 20 May 1862 § 1. 12 Stat. 404. Clearances may be refused, on suspicion that goods are destined for a rebel port.

(a) See *infra* 39.



20 May 1862.

Forfeiture for attempt to depart without clearance.

Ibid. § 2.

Collector may require bond, that goods shall not be used to aid insurgents.

Ibid. § 3.

Transportation of goods may be prohibited in like cases.

Security may be required from shippers.

Forfeiture in case of violation.

Ibid. § 4.

Proceedings for, and remission of penalties.

Ibid. § 5.

Distribution of penalties, &c.

17 July 1862 § 5.  
12 Stat. 500.

Property of rebels to be seized for support of the army.

Of military officers.

Of civil officers.

Of persons in loyal states aiding rebels.

United States; and if any vessel or other vehicle for which a clearance or permit shall have been refused by the secretary of the treasury, or by his order, as aforesaid, shall depart or attempt to depart for a foreign or domestic port without being duly cleared or permitted, such vessel or other vehicle, with her tackle, apparel, furniture and cargo, shall be forfeited to the United States.(a)

24. Whenever a permit or clearance is granted for either a foreign or domestic port, it shall be lawful for the collector of the customs granting the same, if he shall deem it necessary under the circumstances of the case, to require a bond to be executed by the master or the owner of the vessel, in a penalty equal to the value of the cargo, and with sureties to the satisfaction of such collector, that the said cargo shall be delivered at the destination for which it is cleared or permitted, and that no part thereof shall be used in affording aid or comfort to any person or parties in insurrection against the authority of the United States.

25. That the secretary of the treasury be and he is hereby further empowered to prohibit and prevent the transportation in any vessel, or upon any railroad, turnpike or other road or means of transportation within the United States, of any goods, wares or merchandise of whatever character, and whatever may be the ostensible destination of the same, in all cases where there shall be satisfactory reasons to believe that such goods, wares or merchandise are intended for any place in the possession or under the control of insurgents against the United States; or that there is imminent danger that such goods, wares or merchandise will fall into the possession or under the control of such insurgents. And he is further authorized, in all cases where he shall deem it expedient so to do, to require reasonable security to be given that goods, wares or merchandise shall not be transported to any place under insurrectionary control, and shall not in any way be used to give aid or comfort to such insurgents, and he may establish all such general or special regulations as may be necessary or proper to carry into effect the purposes of this act; and if any goods, wares or merchandise shall be transported in violation of this act, or of any regulation of the secretary of the treasury, established in pursuance thereof, or if any attempt shall be made so to transport them, all goods, wares or merchandise so transported or attempted to be transported shall be forfeited to the United States.

26. The proceedings for the penalties and forfeitures accruing under this act may be pursued, and the same may be mitigated or remitted by the secretary of the treasury in the modes prescribed by the 8th and 9th sections of the act of July 13th 1861, to which this act is supplementary.(b)

27. The proceeds of all penalties and forfeitures incurred under this act, or the act to which this is supplementary, shall be distributed in the manner provided by the 91st section of the act of March 2d 1799, entitled "An act to regulate the collection of duties on imports and tonnage."(c)

28. To insure the speedy termination of the present rebellion, it shall be the duty of the president of the United States to cause the seizure of all the estate and property, money, stocks, credits and effects of the persons hereinafter named in this section, and to apply and use the same and the proceeds thereof for the support of the army of the United States, that is to say:

I. Of any person hereafter acting as an officer of the army or navy of the rebels in arms against the government of the United States.

II. Of any person hereafter acting as president, vice president, member of congress, judge of any court, cabinet officer, foreign minister, commissioner or consul of the so-called Confederate States of America.

III. Of any person acting as governor of a state, member of a convention or legislature, or judge of any court of any of the so-called Confederate States of America.

IV. Of any person who, having held an office of honor, trust or profit in the United States, shall hereafter hold an office in the so-called Confederate States of America.

V. Of any person hereafter holding any office or agency under the government of the so-called Confederate States of America, or under any of the several states of the said confederacy, or the laws thereof, whether such office or agency be national, state or municipal in its name or character: *Provided*, That the persons thirdly, fourthly and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the state, or shall have taken an oath of allegiance to, or to support the constitution of the so-called Confederate States.

VI. Of any person who, owning property in any loyal state or territory of the United States, or in the District of Columbia, shall hereafter assist and give aid and comfort to such rebellion.

And all sales, transfers or conveyances of any such property shall be null and void; and

(a) See *United States v. One hundred and twenty-nine Packages*, 11 Am. L. R. 419.

(b) See *supra* 4-5.

(c) Ante 412, pl. 398.

it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

17 July 1862.

29. If any person within any state or territory of the United States, other than those named as aforesaid, after the passage of this act, being engaged in armed rebellion against the government of the United States, or aiding or abetting such rebellion, shall not, within sixty days after public warning and proclamation duly given and made by the president of the United States, cease to aid, countenance and abet such rebellion, and return to his allegiance to the United States, all the estate and property, moneys, stocks and credits of such person shall be liable to seizure as aforesaid, and it shall be the duty of the president to seize and use them as aforesaid or the proceeds thereof. And all sales, transfers or conveyances of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

Ibid. § 6.

In what cases property of such persons to be liable to seizure.

Transfers to be void.

30. To secure the condemnation and sale of any of such property, after the same shall have been seized, so that it may be made available for the purpose aforesaid, proceedings *in rem* shall be instituted in the name of the United States, in any district court thereof, or in any territorial court, or in the United States district court for the District of Columbia, within which the property above described, or any part thereof, may be found, or into which the same, if movable, may first be brought, which proceedings shall conform as nearly as may be to proceedings in admiralty or revenue cases; and if said property, whether real or personal, shall be found to have belonged to a person engaged in rebellion, or who has given aid or comfort thereto, the same shall be condemned as enemies' property, and become the property of the United States, and may be disposed of as the court shall decree, and the proceeds thereof paid into the treasury of the United States for the purposes aforesaid.

Ibid. § 7.

Proceedings for condemnation.

31. The several courts aforesaid shall have power to make such orders, establish such forms of decree and sale, and direct such deeds and conveyances to be executed and delivered by the marshals thereof, where real estate shall be the subject of sale, as shall fitly and efficiently effect the purposes of this act, and vest in the purchasers of such property good and valid titles thereto. And the said courts shall have power to allow such fees and charges of their officers as shall be reasonable and proper in the premises.

Ibid. § 8.

Powers of the courts.

Fees.

32. All slaves of persons who shall hereafter be engaged in rebellion against the government of the United States, or who shall in any way give aid or comfort thereto, escaping from such persons and taking refuge within the lines of the army, and all slaves captured from such persons or deserted by them and coming under the control of the government of the United States, and all slaves of such persons found on [or] being within any place occupied by rebel forces and afterwards occupied by the forces of the United States, shall be deemed captives of war, and shall be for ever free of their servitude, and not again held as slaves.

Ibid. § 9.

Slaves of rebels to be free.

33. No slave escaping into any state, territory, or the District of Columbia, from any other state, shall be delivered up, or in any way impeded or hindered of his liberty, except for crime, or some offence against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due is his lawful owner, and has not borne arms against the United States in the present rebellion, nor in any way given aid and comfort thereto. And no person engaged in the military or naval service of the United States shall, under any pretence whatever, assume to decide on the validity of the claim of any person to the service or labor of any other person, or surrender up any such person to the claimant, on pain of being dismissed from the service.

Ibid. § 10.

Fugitives from labor not to be restored except on oath of owner.

Military officers not to decide in slave cases.

34. The president of the United States is authorized to employ as many persons of African descent as he may deem necessary and proper for the suppression of this rebellion, and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

Ibid. § 11.

Negroes may be employed for suppression of the rebellion.

35. The president of the United States is hereby authorized to make provision for the transportation, colonization and settlement, in some tropical country beyond the limits of the United States, of such persons of the African race, made free by the provisions of this act, as may be willing to emigrate, having first obtained the consent of the government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

Ibid. § 12.

Colonization of freed negroes.

36. The president is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any state or

Ibid. § 13.

- 17 July 1862. part thereof, pardon and amnesty, with such exceptions, and at such time, and on such conditions, as he may deem expedient for the public welfare.
- Ibid. § 14. 37. The courts of the United States shall have full power to institute proceedings, make orders and decrees, issue process, and do all other things necessary to carry this act into effect.
- Process.
- 17 July 1862 § 13. 38. When any man or boy of African descent, who by the laws of any state shall owe service or labor to any person who, during the present rebellion, has levied war or has borne arms against the United States, or adhered to their enemies by giving them aid and comfort, shall render any such service as is provided for in this act, he, his mother and his wife and children, shall forever thereafter be free, any law, usage or custom whatsoever to the contrary notwithstanding: *Provided*, That the mother, wife and children of such man or boy of African descent shall not be made free by the operation of this act, except where such mother, wife or children owe service or labor to some person who, during the present rebellion, has borne arms against the United States or adhered to their enemies by giving them aid and comfort.
- 12 Stat. 599.
- Slaves of rebels to be free.
- 14 July 1862 § 1. 39. That an act entitled "An act to authorize the president of the United States in certain cases to take possession of railroad and telegraph lines, and for other purposes," approved January 31st 1862, (a) shall not be so construed as to authorize the construction of any railroad, or the completion of any line of road, the greater part of which remained uncompleted at the time of the approval of said act, or to engage in any work of railroad construction. And so much of said act as authorizes the president of the United States to extend and complete any railroad, is hereby repealed.
- 12 Stat. 626.
- Limitation of power to construct railroads.
- 8 March 1863 § 1. 40. During the present rebellion, the president of the United States, whenever in his judgment the public safety may require it, is authorized to suspend the privilege of the writ of habeas corpus in any case throughout the United States, or any part thereof. (b) And whenever and wherever the said privilege shall be suspended, as aforesaid, no military or other officer shall be compelled, in answer to any writ of habeas corpus, to return the body of any person or persons detained by him by authority of the president; but upon the certificate, under oath, of the officer having charge of any one so detained that such person is detained by him as a prisoner under authority of the president, further proceedings under the writ of habeas corpus shall be suspended by the judge or court having issued the said writ, so long as said suspension by the president shall remain in force and said rebellion continue. (c)
- 12 Stat. 755.
- President may suspend the habeas corpus.
- Effect thereof.
- Ibid. § 2. 41. That the secretary of state and the secretary of war be and they are hereby directed, as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States and of the District of Columbia, a list of the names of all persons, citizens of states in which the administration of the laws has continued unimpaired in the said federal courts, who are now or may hereafter be held as prisoners of the United States, by order or authority of the president of the United States or either of said secretaries, in any fort, arsenal or other place, as state or political prisoners, or otherwise than as prisoners of war; the said list to contain the names of all those who reside in the respective jurisdictions of said judges, or who may be deemed by the said secretaries, or either of them, to have violated any law of the United States in any of said jurisdictions, and also the date of each arrest; the secretary of state to furnish a list of such persons as are imprisoned by the order or authority of the president, acting through the state department, and the secretary of war a list of such as are imprisoned by the order or authority of the president, acting through the department of war. And in all cases where a grand jury, having attended any of said courts having jurisdiction in the premises, after the passage of this act, and after the furnishing of said list, as aforesaid, has terminated its session without finding an indictment or presentment, or other proceeding against any such person, it shall be the duty of the judge of said court forthwith to make an order that any such prisoner desiring a discharge from said imprisonment be brought before him to be discharged; and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than five hundred dollars and imprisonment in the common jail for a period not
- When to be discharged.
- Penalty for refusing to discharge on judge's order.
- (a) *Supra* 19-22.
- (b) Upon a return to a writ of habeas corpus, that the relator was held by virtue of an order issued by the secretary of war, by direction of the president, for endeavoring to prevent and discouraging enlistments in the army, and that the privilege of the writ of habeas corpus had been suspended by the president, the writ was dismissed without inquiry into the validity of the arrest, or the legality of the cause of complaint. *Kulp v. Ricketts*, 20 Leg. Int. 268. And see *Vallandigham's Trial* 259.
- (c) On the 15th September 1863, the president, by proclamation, suspended the privilege of the writ of habeas corpus, during the rebellion, throughout the United States, in all "cases when, by the authority of the president of the United States, the military, naval and civil officers of the United States, or any of them, hold persons under their command or in their custody, either as prisoners of war, spies, or aids or abettors of the enemy, or officers, soldiers or seamen, enrolled, drafted, or mustered or enlisted in or belonging to the land or naval officers of the United States, or as deserters therefrom, or otherwise amenable to military law or the rules and articles of war, or the rules or regulations prescribed for the military or naval service by authority of the president of the United States, or for resisting a draft, or for any other offence against the military or naval service." The proclamation, however, was subsequently modified so as to allow the privilege of the writ to minors illegally enlisted or drafted into the military service.

less than six months, in the discretion of the court: *Provided, however,* That no person shall be discharged by virtue of the provisions of this act until after he or she shall have taken an oath of allegiance to the government of the United States, and to support the constitution thereof, and that he or she will not hereafter in any way encourage or give aid and comfort to the present rebellion, or the supporters thereof: *And provided also,* That the judge or court before whom such person may be brought, before discharging him or her from imprisonment, shall have power, on examination of the case, and, if the public safety shall require it, shall be required to cause him or her to enter into recognisance, with or without surety, in a sum to be fixed by said judge or court, to keep the peace and be of good behavior towards the United States and its citizens, and from time to time, and at such times as such judge or court may direct, appear before said judge or court to be further dealt with, according to law, as the circumstances may require. And it shall be the duty of the district attorney of the United States to attend such examination before the judge.

3 March 1863.

Prisoners, before discharge, to take oath of allegiance.

3 March '63.

Surety, if the peace may be demanded.

42. In case any of such prisoners shall be under indictment or presentment for any offence against the laws of the United States, and by existing laws bail or a recognisance may be taken for the appearance for trial of such person, it shall be the duty of said judge at once to discharge such person upon bail or recognisance for trial as aforesaid. And in case the said secretaries of state and war shall for any reason refuse or omit to furnish the said list of persons held as prisoners as aforesaid at the time of the passage of this act, within twenty days thereafter, and of such persons as hereafter may be arrested within twenty days from the time of the arrest, any citizen may, after a grand jury shall have terminated its session without finding an indictment or presentment, as provided in the second section of this act, by a petition alleging the facts aforesaid touching any of the persons so as aforesaid imprisoned, supported by the oath of such petitioner or any other credible person, obtain and be entitled to have the said judge's order to discharge such prisoner, on the same terms and conditions prescribed in the second section of this act: *Provided, however,* That the said judge shall be satisfied such allegations are true.

Ibid. § 3.

Prisoners indicted to be bailed.

Proceedings on refusal to furnish list of state prisoners.

43. Any order of the president, or under his authority, made at any time during the existence of the present rebellion, shall be a defence in all courts to any action or prosecution, civil or criminal, pending or to be commenced for any search, seizure, arrest or imprisonment, made, done or committed, or acts omitted to be done under and by virtue of such order, or under color of any law of congress, and such defence may be made by special plea, or under the general issue. (a)

Ibid. § 4.

President's order to be a full defence to action for arrest, &c.

44. If any suit or prosecution, civil or criminal, has been or shall be commenced in any state court against any officer, civil or military, or against any other person, for any arrest or imprisonment made, or other trespasses or wrongs done or committed, or any act omitted to be done, at any time during the present rebellion, by virtue or under color of any authority derived from or exercised by or under the president of the United States, (b) or any act of congress, and the defendant shall, at the time of entering his appearance in such court, or if such appearance shall have been entered before the passage of this act, then at the next session of the court in which such suit or prosecution is pending, (c) file a petition stating the facts (d) and verified by affidavit, for the removal of the cause for trial at the next circuit court of the United States, to be holden in the district where the suit is pending, and offer good and sufficient surety for his filing in such court, on the first day of its session, copies of such process and other proceedings against him, and also for his appearing in such court and entering special bail in the cause, if special bail was originally required therein. It shall then be the duty of the state court to accept the surety and proceed no further in the cause or prosecution, and the bail that shall have been originally taken shall be discharged. And such copies being filed as aforesaid in such court of the United States, the cause shall proceed therein in the same manner as if it had been brought in said court by original process, whatever may be the amount in dispute or the damages claimed, or whatever the citizenship of the parties, any former law to the contrary notwithstanding. And any attachment of the goods or estate of the defendant by the original process shall hold the goods or estate so attached to answer the final judgment, in the same manner as by the laws of such state they would have been holden to answer final judgment, had it been rendered in the court in which the suit or prosecution was commenced. And it shall be lawful in any such action or prosecution which may be now pending, or hereafter commenced, before any state court whatever, for any cause aforesaid, after final judgment, for either party to remove and transfer, by appeal, such case, during the session or term of said court at which the same shall have taken place, from such court

Ibid. § 5.

Actions may be removed to the circuit courts.

Proceedings for removal.

Appeals from final judgments.

(a) See *Hodgson v. Millward*, 20 Leg. Int. 60.

(b) See *Hodgson v. Millward*, 20 Leg. Int. 164.

(c) A cause in which a verdict has been rendered, but no judgment entered thereon, is pending within the meaning of the act, and removable into the circuit court under this section. *Hodgson v. Millward*, 20 Leg. Int. 164, 348. A criminal prosecution cannot be

removed, before indictment found. *Com. v. Artman*, Circuit Court, Penn., Grier, J., 2 Nov. 1863. MS. In the state of Ohio *v. Bliss*, 10 Pittsburgh Leg. J. 304, this act was held to be unconstitutional. But the contrary was decided, in *Pennsylvania, in Kulp v. Ricketts*, 20 Leg. Int. 268. (d) See *Kulp v. Ricketts*, 20 Leg. Int. 268.

- 8 March 1863. to the next circuit court of the United States to be held in the district in which such appeal shall be taken in manner aforesaid. And it shall be the duty of the person taking such appeal to produce and file in the said circuit court attested copies of the process, proceedings and judgment in such cause; and it shall also be competent for either party, within six months after the rendition of a judgment in any such cause, by writ of error or other process, to remove the same to the circuit court of the United States of that district in which such judgment shall have been rendered; and the said circuit court shall thereupon proceed to try and determine the facts and the law in such action, in the same manner as if the same had been there originally commenced, the judgment in such case notwithstanding. And any bail which may have been taken, or property attached, shall be holden on the final judgment of the said circuit court in such action, in the same manner as if no such removal and transfer had been made as aforesaid. And the state court, from which any such action, civil or criminal, may be removed and transferred as aforesaid, upon the parties giving good and sufficient security for the prosecution thereof, shall allow the same to be removed and transferred, and proceed no further in the case: *Provided, however,* That if the party aforesaid shall fail duly to enter the removal and transfer as aforesaid, in the circuit court of the United States, agreeably to this act, the state court, by which judgment shall have been rendered, and from which the transfer and removal shall have been made as aforesaid, shall be authorized, on motion for that purpose, to issue execution, and to carry into effect any such judgment, the same as if no such removal and transfer had been made: *And provided also,* That no such appeal or writ of error shall be allowed in any criminal action or prosecution, where final judgment shall have been rendered in favor of the defendant or respondent by the state court. And if in any suit hereafter commenced the plaintiff is nonsuited or judgment pass against him, the defendant shall recover double costs.
- Powers of the circuit courts.**
- Proceedings on failure to perfect removal.**
- Costs.**
- Ibid. § 6.**
- Appeals to supreme court.**
- Ibid. § 7.**
- Limitation of actions.**
45. Any suit or prosecution described in this act, in which final judgment may be rendered in the circuit court, may be carried by writ of error to the supreme court, whatever may be the amount of said judgment.
46. No suit or prosecution, civil or criminal, shall be maintained for any arrest or imprisonment made, or other trespasses or wrongs done or committed, or act omitted to be done, at any time during the present rebellion, by virtue or under color of any authority derived from or exercised by or under the president of the United States, or by or under any act of congress, unless the same shall have been commenced within two years next after such arrest, imprisonment, trespass or wrong may have been done or committed, or act may have been omitted to be done: *Provided,* That in no case shall the limitation herein provided commence to run until the passage of this act, so that no party shall, by virtue of this act, be debarred of his remedy by suit or prosecution until two years from and after the passage of this act.
47. In all cases now or hereafter pending wherein any ship, vessel or other property shall be condemned in any proceeding by virtue of the acts above mentioned, (a) or of any other laws on that subject, the court rendering judgment of condemnation shall, notwithstanding such condemnation, and before awarding such ship, vessel or other property, or the proceeds thereof, to the United States, or to any informer, first provide for the payment, out of the proceeds of such ship, vessel or other property, of any *bond fide* claims which shall be filed by any loyal citizen of the United States, or of any foreign state or power at peace and amity with the United States, intervening in such proceeding, and which shall be duly established by evidence as a valid claim against such ship, vessel or other property under the laws of the United States or of any loyal state thereof: *Provided,* That no such claim shall be allowed in any case where the claimant shall have knowingly participated in the illegal use of such ship, vessel or other property: *And provided also,* That this act shall extend to such claims only as might have been enforced specifically against such ship, vessel or other property in any loyal state wherein such claim arose.
48. It shall be lawful for the secretary of the treasury, from and after the passage of this act, as he shall from time to time see fit, to appoint a special agent or agents to receive and collect all abandoned or captured property in any state or territory, or any portion of any state or territory, of the United States, designated as in insurrection against the lawful government of the United States by the proclamation of the president of July 1st 1862: *Provided,* That such property shall not include any kind or description which has been used, or which was intended to be used, for waging or carrying on war against the United States, such as arms, ordnance, ships, steamboats or other water craft, and the furniture, forage, military supplies or munitions of war.
49. Any part of the goods or property received or collected by such agent or agents may be appropriated to public use on due appraisement and certificate thereof, or forwarded to any place of sale within the loyal states, as the public interests may require;
- 3 March 1863 § 1.  
12 Stat. 762.
- Bond fide claims of loyal citizens to be paid out of confiscated property.**
- 3 March 1863 § 1.  
12 Stat. 820.
- Agents for captured property, &c.**
- Ibid. § 2.**
- How appropriated.**

and all sales of such property shall be at auction to the highest bidder, and the proceeds thereof shall be paid into the treasury of the United States. 3 March 1863.

50. The secretary of the treasury may require the special agents appointed under this act to give a bond, with such securities and in such amount as he shall deem necessary, and to require the increase of said amounts and the strengthening of said security, as circumstances may demand; and he shall also cause a book or books of account to be kept, showing from whom such property was received, the cost of transportation and proceeds of the sale thereof. And any person claiming to have been the owner of any such abandoned or captured property, may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the court of claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the deduction of any purchase-money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof. Ibid. § 3. Bonds of agents. When owner may reclaim. Jurisdiction of court of claims.

51. All property coming into any of the United States not declared in insurrection as aforesaid, from within any of the states declared in insurrection, through or by any other person than any agent duly appointed under the provisions of this act, or under a lawful clearance by the proper officer of the treasury department, shall be confiscated to the use of the government of the United States. And the proceedings for the condemnation and sale of any such property shall be instituted and conducted under the direction of the secretary of the treasury, in the mode prescribed by the 89th and 90th sections of the act of March 2d 1799, entitled "An act to regulate the collection of duties on imports and tonnage." And any agent or agents, person or persons, by or through whom such property shall come within the lines of the United States unlawfully, as aforesaid, shall be judged guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding one thousand dollars, or imprisoned for any time not exceeding one year, or both, at the discretion of the court. And the fines, penalties and forfeitures accruing under this act may be mitigated or remitted in the mode prescribed by the act of March 3d 1797, or in such manner, in special cases, as the secretary of the treasury may prescribe. Ibid. § 4. Property brought from insurrectionary districts to be confiscated. Proceedings for condemnation. Punishment of agents. Remission of penalties.

52. It shall be the duty of every officer or private of the regular or volunteer forces of the United States, or any officer, sailor or marine in the naval service of the United States upon the inland waters of the United States, who may take or receive any such abandoned property, or cotton, sugar, rice or tobacco, from persons in such insurrectionary districts, or have it under his control, to turn the same over to an agent appointed as aforesaid, who shall give a receipt therefor; and in case he shall refuse or neglect so to do, he shall be tried by a court martial, and shall be dismissed from the service, or, if an officer, reduced to the ranks, or suffer such other punishment as said court shall order, with the approval of the president of the United States. Ibid. § 6. All captured property to be delivered up. Penalty for refusal or neglect.

53. None of the provisions of this act shall apply to any lawful maritime prize by the naval forces of the United States. Ibid. § 7.

The manner in which the army and navy are to be employed, in the suppression of an insurrection, is left to the discretion of the president, guided by the usages and principles of civilized war; among which are the institution of a blockade and the capture of enemy's property at sea. *The Amy Warwick*, 24 Law Rep. 335-6. *The Revere*, *Ibid.* 277.

The inhabitants of states in rebellion against the government

are to be considered as alien enemies, and, as such, disqualified from suing in the courts of the loyal states. *Bouneau v. Dinmore*, 24 Law Rep. 381. s. c., 19 Leg. Int. 108. Nor can they appear as claimants in a case of prize. *United States v. The Isaac Hammett*, 10 Pittsburgh Leg. J. 97. *United States v. The Allegheny*, *Ibid.* 276. ✓

## Interior Department.

1. Secretary to receive, keep and distribute public documents. Room to be provided in the patent office. Delivery of documents.
2. Removal from other places of deposit. Appropriation.
3. Register to be kept. Reports to congress.
4. On whose requisition documents to be delivered. Expenses.
5. Duties of the secretary. Resolution of 1858 repealed. Reso-

- lution of 1857 amended.
6. Wilkes's Exploring Expedition excepted.
7. Copyright publications to be sent to secretary of the interior.
8. Documents not to be removed from places of deposit.
9. Assistant secretary. Salary.

1. The secretary of the interior is hereby charged with receiving, arranging, safe-keeping and [with the] distribution of all printed journals of the two houses of congress, and all other books and documents, of every nature whatever, already or hereafter directed by law to be printed or purchased for the use of the government, except of such as are directed to be printed or purchased for the particular use of congress, or of either house thereof, or for the particular use of the executive or of any of the departments; and for this purpose the secretary of the interior is hereby directed to set apart a proper 5 Feb. 1859 § 1. 11 Stat. 379. Secretary to receive, keep and distribute public documents.

2 Feb. 1859.  
Room to be provided in the patent office.  
Delivery of documents.

Ibid. § 2.

Removal from other places of deposit.  
Appropriation.

Ibid. § 3.

Register to be kept.

Reports to congress.

Ibid. § 4.

On whose requisition documents to be delivered.

Expenses.

Ibid. § 5.

Duties of the secretary.

Resolution of 1858 repealed.

Resolution of 1857 amended.

Ibid. § 7.

Wilkes's exploring expedition excepted.

Ibid. § 8.

Copyright publications to be sent to secretary of the interior.

Ibid. § 10.

14 Mar. 1862 § 6.  
12 Stat. 309.

Assistant secretary.

Salary.

room or rooms in the patent office building to be used for this and no other purpose; and the superintendent of public printing, public printer, binder or contractor, or any other person whose duty it shall be by law to deliver any of the same, shall deliver the same to him there.

2. It shall be the duty of the secretary of the interior to obtain and remove from the other departments and offices and from the congressional library, and other places where the same are now kept, all such journals, books and other documents now on hand and described in the foregoing section; and for this purpose, so much as is necessary of the appropriation made in the following clause of the act, entitled "An act making appropriations for certain civil expenses of the government for the year ending the 30th of June 1858," approved March 3d 1857, to wit: "For expenses of packing and distributing the congressional journals and documents, in pursuance of the provisions contained in the joint resolutions of congress approved 28th January 1857, twenty-two thousand dollars," as remains unexpended, is hereby appropriated.

3. A register of such journals, books and other documents shall be kept under the authority of the secretary of the interior, showing the quantity and kind of each at any time received by him in pursuance of this act; and it shall be his duty to be caused to be entered in such register, at the proper time, when, where and to whom the same, or any part of them, have been distributed and delivered, and to report the same to congress at the first session of each congress.

4. The same shall be delivered out by the secretary of the interior only on the written requisition of the heads of departments, secretary of the senate, clerk of the house of representatives, librarian of congress, and other officers and persons, private and corporate, who are by law authorized to receive the same, except where by law the secretary of the interior is required, without such requisition, to cause the same to be sent and delivered; and in either of such cases it shall be the duty of the secretary of the interior to cause the same to be sent and delivered, the expenses thereof, except when otherwise directed, to be charged on the contingent fund of the department.

5. All such journals, books and other documents shall hereafter be distributed according to and for the purposes now prescribed by law, except that the distribution of the same to the governors of the states and territories, and to the judges of the courts of the United States, and other officers and public bodies within the states or territories, shall be wholly under the control of the secretary of the interior; and the joint resolution, approved March 20th 1858, supplementary to the joint resolution approved January 28th 1857, respecting the distribution of certain documents, is hereby repealed; and the third section of said joint resolution of January 28th 1857, is hereby amended by striking out the words "by him" in the last line, and inserting the words "to him, by each of the senators from the several states, respectively, and by the representative in congress from each congressional district, and by the delegate from each territory in the United States." *And provided*, That such distribution shall first be made at the instance of the representatives in congress from districts in which such public documents have not already been distributed, so that the quantity distributed to each congressional district and territory shall be equal.

6. By this act the distribution of all works mentioned in the first section as public documents is intended and directed to be made, except the "Exploring Expedition" conducted by Commander Wilkes.

7. All books, maps, charts and other publications of every nature whatever heretofore deposited in the department of state according to the laws regulating copyrights, together with all the records of the department of state in regard to the same, shall be removed to and be under the control of the department of the interior, which is hereby charged with all the duties connected with the same, and with all matters pertaining to copyright, in the same manner and to the same extent that the department of state is now charged with the same; and hereafter all such publications of every nature whatever shall, under present laws and regulations, be left with and kept by him.

8. All such books and documents, when received at the proper offices, libraries, and so forth, as provided by law, shall be kept there and not removed from such places.

9. The president shall appoint in the department of the interior, by and with the advice and consent of the senate, a competent person, who shall be called the assistant secretary of the interior, whose salary shall be three thousand dollars, payable in the same manner as the salary of the secretary of the interior, who shall perform such duties in the department of the interior as shall be prescribed by the secretary, or may be required by law, and who shall act as the secretary of the interior in the absence of that officer.

# Iowa.

## I. CIRCUIT AND DISTRICT COURTS.

1. Divisions for jury trials. Northern division.
2. Southern division.
3. Western division.

4. Former laws to be applicable.
5. Power of the judge.
6. Terms of circuit and district courts.

## I. CIRCUIT AND DISTRICT COURTS.

1. For the purpose of trying all issues of fact triable by jury in the district court of the United States for the district of Iowa, said district shall be divided into three divisions as follows, namely: The counties of Clinton, Jones, Linn, Benton, Tama, Marshall, Grundy, Hardin, Webster and all the counties north of the same, and east of Calhoun, Pocahontas, Palo Alto and Emmett, shall constitute the northern division; and two regular terms of said court for the same shall be held annually at Dubuque, to commence on the third Tuesdays of April and October.

3 March 1869 § 5.  
11 Stat. 437.

Divisions for jury trials.

Northern division.

2. The counties of Scott, Cedar, Johnson, Iowa, Powasheik, Mahaska, Marion, Lucas, Clark, Decatur and all the counties south and east of the same, shall constitute the southern division; and two regular terms of said court shall be held annually for said division at Keokuk, to commence on the third Tuesdays of March and September.

Ibid. § 6.  
Southern division.

3. All the remaining counties of the state shall constitute the western division; and one regular term of said court shall be held on the second Tuesday of November in each year at Des Moines.

Ibid. § 7.  
Western division.

4. The provisions of the several acts of congress, regulating the courts in the several divisions as heretofore organized shall, as far as the same are applicable, apply to the courts of said district under the present division.

Ibid. § 8.  
Former laws to be applicable.

5. The judge of said district court shall have power to make such rules and orders as may be necessary to carry into effect the changes provided for in this act.

Ibid. § 9.  
Power of the judge.

6. Instead of the times heretofore provided by law, the terms of the circuit and district courts for the district of Iowa, to be held at Des Moines, shall be held on the second Tuesday of May and third Tuesday in October in each year; and the fall term of the district court for said district, to be held at Dubuque, shall be held on the third Tuesday in November.

2 March 1869 § 2.  
12 Stat. 603.  
Terms of circuit and district courts.

# Juries.

1. Disloyal practices to be cause of challenge.
2. Additional oath to jurors.

3. False swearing to be perjury.

1. In addition to the existing causes of disqualification and challenge of grand and petit jurors in the courts of the United States, the following are hereby declared and established, namely: without duress and coercion to have taken up arms or to have joined any insurrection and rebellion against the United States; to have adhered to any rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes or anything whatever, to or for the use or benefit of any person or persons whom the person giving such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist with force of arms, the execution of the laws of the United States, or who he had good ground to believe had joined, or was about to join, any insurrection or rebellion, or had resisted, or was about to resist, with force of arms, the execution of the laws of the United States; and to have counselled and advised any person or persons to join any insurrection and rebellion, or to resist with force of arms the laws of the United States.

17 June 1862 § 1.  
12 Stat. 430.

Disloyal practices to be cause of challenge.

2. At each and every term of any court of the United States, the district attorney, or other person acting for and on behalf of the United States in said court, may move, and the court in their discretion may require the clerk to tender to each and every person who may be summoned to serve as a grand or petit juror or venireman or talesman in said court, the following oath or affirmation, viz.: "You do solemnly swear (or affirm, as the case may be) that you will support the constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any

Ibid. § 2.  
Additional oath to jurors.



17 June 1862.

*assistance in money or any other thing, to any person or persons who you knew, or had good ground to believe, had joined, or was about to join, said insurrection and rebellion, or had resisted, or was about to resist, with force of arms, the execution of the laws of the United States; and that you have not counselled or advised any person or persons to join any rebellion against, or to resist with force of arms, the laws of the United States."* Any person or persons declining to take said oath shall be discharged by the court from serving on the grand or petit jury or venire, to which he may have been summoned.

Ibid. § 3.

False swearing to be perjury.

3. Each and every person who shall take the oath herein prescribed, and who shall swear falsely to any matter of fact embraced by it, shall be held to have committed the crime of perjury, and shall be subject to the pains and penalties declared against that crime.(a)

(a) See act 16 June 1862, as to jurors in the District of Columbia. 12 Stat. 423.

## Kansas.

### I. ADMISSION INTO THE UNION.

1. Kansas admitted into the Union. Boundaries. Indian rights not to be impaired.
2. Representation in congress.
3. Propositions. School lands. Lands for a university. Public buildings. Salt spring. Proceeds of sale of public lands. Taxes.

### II. CIRCUIT AND DISTRICT COURTS.

4. Laws of the United States extended to Kansas. District court. Judicial officers. Mandates in pending causes.
5. Terms of district court.
6. Terms of circuit court.

### I. ADMISSION INTO THE UNION.

29 Jan. 1861 § 1.  
12 Stat. 126.

Kansas admitted into the Union.

Boundaries.

Indian rights not to be impaired.

Ibid. § 2.

Representation in congress.

Ibid. § 3.

Propositions.

School lands.

Lands for a university.

1. Whereas, the people of the territory of Kansas, by their representatives in convention assembled at Wyandott, in said territory, on the 29th day of July 1859, did form for themselves a constitution and state government, republican in form, which was ratified and adopted by the people at an election held for that purpose on Tuesday, the 4th day of October 1859, and the said convention has, in their name and behalf, asked the congress of the United States to admit the said territory into the Union as a state, on an equal footing with the other states: Therefore be it enacted, That the state of Kansas shall be and is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original states in all respects whatever. And the said state shall consist of all the territory included within the following boundaries, to wit: Beginning at a point on the western boundary of the state of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the state of Missouri; thence south with the western boundary of said state to the place of beginning: *Provided*, That nothing contained in the said constitution respecting the boundary of said state shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the state of Kansas, until said tribe shall signify their assent to the president of the United States to be included within said state; or to affect the authority of the government of the United States to make any regulation respecting such Indians, their lands, property or other rights, by treaty, law or otherwise, which it would have been competent to make if this act had never passed.

2. Until the next general apportionment of representatives, the state of Kansas shall be entitled to one representative in the house of representatives of the United States.

3. Nothing in this act shall be construed as an assent by congress to all or to any of the propositions or claims contained in the ordinance of said constitution of the people of Kansas, or in the resolutions thereto attached; but the following propositions are hereby offered to the said people of Kansas for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said state of Kansas, to wit: First, That sections numbered sixteen and thirty-six in every township of public lands in said state, and where either of said sections or any part thereof has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said state for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a state university, to be selected by the governor of said state, subject to the approval of the commissioner of the general land office, and to be appropriated and applied in such manner

as the legislature of said state may prescribe for the purpose aforesaid, but for no other purpose. Third, That ten entire sections of land, to be selected by the governor of said state, in legal subdivisions, shall be granted to said state for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof. Fourth, That all salt springs within said state, not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said state for its use, the same to be selected by the governor thereof within one year after the admission of said state, and when so selected to be used or disposed of on such terms, conditions and regulations as the legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said state. Fifth, That five per centum of the net proceeds of sales of all public lands lying within said state which shall be sold by congress after the admission of said state into the Union, after deducting all the expenses incident to the same, shall be paid to said state for the purpose of making public roads and internal improvements, or for other purposes, as the legislature shall direct: *Provided*, That the foregoing propositions hereinbefore offered are on the condition that the people of Kansas shall provide by an ordinance, irrevocable without the consent of the United States, that said state shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations congress may find necessary for securing the title in said soil to *bonâ fide* purchasers thereof. Sixth, And that the said state shall never tax the lands or the property of the United States in said state: *Provided, however*, That in case any of the lands herein granted to the state of Kansas have heretofore been confirmed to the territory of Kansas for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act.

29 Jan. 1861.  
Public buildings  
Salt springs.

Proceeds of sales  
of public lands.

Taxes.

## II. CIRCUIT AND DISTRICT COURTS.

4. From and after the admission of the state of Kansas, as hereinbefore provided, all the laws of the United States which are not locally inapplicable, shall have the same force and effect within that state as in other states of the Union; and the said state is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Minnesota, shall be established; the judge, attorney and marshal of the United States for the said district of Kansas shall reside within the same, and shall be entitled to the same compensation as the judge, attorney and marshal of the district of Minnesota. And in all cases of appeal or writ of error heretofore prosecuted, and now pending in the supreme court of the United States, upon any record from the supreme court of Kansas territory, the mandate of execution or order of further proceedings shall be directed by the supreme court of the United States to the district court of the United States for the district of Kansas, or to the supreme court of the state of Kansas, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Kansas territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

29 Jan. 1861 § 4.  
12 Stat. 128.  
Laws of the United States extended to Kansas.  
District court.  
Judicial officers.

Mandates in pending causes.

5. The judge of the district court for the district of Kansas shall hold two regular terms of the said court annually, at the seat of government of the said state, to commence on the second Mondays of April and October in each year.

*Ibid.* § 5.  
Terms

6. The terms of the circuit court for the district of Kansas shall be holden in each and every year at the place prescribed by law for holding terms of the district court therein, on the fourth Monday of May and November.

13 Jan. 1863 § 1.  
12 Stat. 635.  
Terms of circuit court.

# Kentucky.

1. Terms of the circuit and district courts.
2. Adjournments in absence of the judges. *Special terms of the circuit court.*
3. Juries.

4. Special terms of the district courts.
5. Adjournments.
6. Terms to be without limitation.
7. Clerks.

## I. CIRCUIT AND DISTRICT COURTS.

15 May 1862 § 1.  
12 Stat. 386.

*Terms of the circuit and district courts.*

1. The circuit and district courts of the United States for the district of Kentucky shall hereafter commence and be held as follows: at Covington on the third Monday of April and on the first Monday of December; at Louisville on the third Monday of February and first Monday of October; at Frankfort on the third Monday of May and first Monday of January; and at Paducah on the third Monday of March and first Monday of November. (a)

*Ibid. § 2.*

*Adjournments in absence of the judges.*

2. If neither of the judges of said courts be present at the time for opening court, the clerk may open and adjourn the court from day to day for four days, and if the judge does not appear by two o'clock P. M. of the fourth day, the clerk shall adjourn the court to the next stated term. But either the circuit or district judge, by written order to the clerk within the first three days of his term, may adjourn court to a future day within thirty days of the first day, of which adjournment the clerk shall give notice by posting a copy of said order on the front door of the court-house where the court is to be held; and the district judge, and, in his absence, the circuit judge, may order a special term of the circuit court, designated in a similar order, to be published in a similar manner, and in one or more newspapers in the place where the court is held; and by said order the judge may prescribe the duties of the officers of court in summoning juries, and in the performance of other acts necessary for the holding of such special term, or the court may by its order, after it is opened, proscribe the duties of its officers, and the mode of proceeding, and any of the details thereof.

*Special terms of the circuit court.*

*Ibid. § 3.*

*Juries.*

3. Such number of jurors shall be summoned by the marshal at every term of the circuit and district courts respectively, as may have been ordered of record at the previous term; and in case there is not a sufficient number of jurors in attendance at any time, the court may order such number to be summoned as, in its judgment, may be deemed necessary to transact the business of the court. And a grand jury may be summoned to attend every term of the circuit or district court by order of court. The marshal may summon juries and talesmen in case of a deficiency, pursuant to an order of court made during the term; and they shall serve for such time as the court may direct.

*Ibid. § 4.*

*Special terms of the district courts.*

4. A special term of any district court may be held at any time that the district judge may order by giving notice thereof on the front door of the court-house where the court is to be held, and in some respectable newspaper, if there be any at the place.

*Ibid. § 5.*

*Adjournments.*

5. The district judge may adjourn the court from time to time to suit the convenience of litigants and to meet the necessities of the business; and the intervention of a term of a district or circuit court at another place shall not preclude the power to adjourn over to a future day.

*Ibid. § 6.*

*Terms to be without limitation.*

6. The terms of the circuit and district courts shall not be limited to any particular number of days, nor shall it be necessary to adjourn by reason of the intervention of a term of the court elsewhere; but the business of the courts at two places may proceed, there being a judge present at each place, or the court intervening may be adjourned over, as herein provided, till the business of the court in session is concluded.

*Ibid. § 7.*

*Clerks.*

7. A clerk shall be appointed at every place of holding circuit and district courts for the district of Kentucky, in like manner and subject to the same duties and responsibilities that other clerks are subject to in other independent districts; the deputy clerks at Covington, Louisville and Paducah shall perform the duties of the offices respectively, till clerks are duly appointed and qualified.

(a) See act 15 June 1860, 12 Stat. 36, which is hereby supplied and repealed.

# Lands.

## I. DISTRICT LAND OFFICES.

1. Additional fees for services in consolidated offices. Limitation.
2. Allowance for rent and clerk hire.
3. To extend to all consolidated offices.
4. Allowance to former officers.
5. Act for extra allowances for clerical services repealed.
6. Discontinuance of land offices.

## II. SURVEYS OF PUBLIC LANDS.

7. When contracts for surveys to be binding.
8. Instructions to be deemed part of the contract.
9. Prices of surveys established. Accounts. When patents to issue.
10. Settlers in any township may have it surveyed. Terms.
11. All claims and grants to be surveyed by the proper officers. Titles not to be affected thereby.

## III. SURVEYORS-GENERAL.

- 12-13. Utah and Colorado to be a surveying district. Nevada united to California.
14. Surveyor-general of New Mexico to act as register and receiver. Duties of register and receiver may be transferred to any surveyor-general.
15. Salaries of certain surveyors-general.

## IV. REGISTERS AND RECEIVERS.

16. Compensation of registers and receivers. When to commence.
17. Salaries and fees.

## V. PRE-EMPTION RIGHTS.

18. By whom appeals to be decided.
19. Settlers upon school lands, before survey, with a view to pre-emption, to have such right. Other lands appropriated. Deficiencies in sections 16 and 36, when fractional, to be compensated for. How such lands to be selected.
20. Pre-emption rights extended to California. When declaratory statement to be filed. Pre-emption rights not to extend to mineral lands.

## VI. PRICE OF PUBLIC LANDS.

21. Graduation act repealed.

## VII. CORRECTION OF ERRORS.

22. Money paid for lands erroneously sold, to be refunded.
23. If invested, stocks to be sold to reimburse the purchaser.

## VIII. SALE OF MILITARY SITES.

24. Laws for sale of military sites repealed. Exception.

## IX. RESERVATION OF TOWN SITES.

25. Town sites to be reserved from sale.
26. To be appraised. And sold in lots.

## X. HOMESTEADS.

27. Heads of families may enter a quarter section of land.
28. How application to be made. Fees. When certificate and patent to issue. Affidavit. Right to vest in children. Title of purchaser.
29. Record of applications.
30. Not to be subject to prior debts.

## I. DISTRICT LAND OFFICES.

1. The register for the consolidated land districts at Booneville, in the state of Missouri, in consequence of additional duties imposed upon him, and in addition to the fees now allowed by law, shall be entitled to charge and receive for making transcripts for individuals, or furnishing any other record information respecting public lands or land titles in his consolidated land district, such fees as are properly authorized by the tariff existing in the local courts in said district: *Provided*, The whole amount of the register's compensation, including all fees and commissions to which he is entitled under existing laws, shall not exceed three thousand dollars per annum, or pro rata per quarter, the excess, if any, over that amount, shall be paid into the treasury of the United States; and the receiver shall receive his equal share of such fees, and it shall be his duty to aid the register in the preparation of the transcripts, or giving the record information as aforesaid.

2. That the secretary of the interior be and he is hereby authorized to make a reasonable allowance for office rent for such consolidated office, and, when satisfied of the necessity therefor, to approve the employment by said register of one or more clerks, at a reasonable per diem compensation, for such time as said clerk or clerks are absolutely required to keep up the current public business, and who shall be paid out of the surplus fees above authorized to be charged, if any, and if no surplus exists, then out of the appropriation for incidental expenses of district land offices; but no clerk shall be so paid unless his employment has been first sanctioned by the secretary of the interior.

31. In case of abandonment, land to revert.

32. Not more than one quarter section to be thus acquired. Rules and regulations to be established. Pre-emption rights not to be impaired. Minors to be entitled to the benefit of this act in certain cases.

33. Punishment of false swearing.

34. Applicant may purchase, at minimum price, at any time.

## XI. LANDS DONATED TO THE STATES.

35. Lands donated to the several states.
36. How apportioned among the states. From what lands to be selected. When scrip to be issued. Location.
37. How expenses to be paid.
38. Proceeds to be invested. Interest to be applied to collegiate purposes.
39. Conditions of the grant. Fund to be kept at interest. Not to be applied to building purposes. College to be erected within five years. Annual reports. Computation of bonds. States in rebellion excluded. Assent to be given within two years.
40. When scrip to be subject to location.
41. Fees.
42. Annual reports to congress.

## XII. LANDS CEDED TO THE UNITED STATES.

43. Unproductive lands may be rented.

## XIII. RECLAMATION OF SWAMP LANDS.

44. Act of 1850 extended to Minnesota and Oregon.
45. Selection to be made within two years.

## XIV. LANDS NORTH OF THE OHIO AND EAST OF THE MISSISSIPPI.

46. Office at Vincennes continued.
47. Duties of the register.
48. Register to perform duties of receiver. Salary. Fees.
49. Residence. Bond.

## XV. LANDS IN FLORIDA.

50. Georgia grants to be confirmed. Conditions.

## XVI. LAND CLAIMS IN FLORIDA, LOUISIANA AND MISSOURI.

51. Claimants to apply to commissioners for confirmation of their titles. Proceedings.
52. Appointment of commissioners. Their powers.
53. Claims to be classified. Claims heretofore rejected as fraudulent not to be confirmed.
54. Duties of commissioner of the land office.
55. Claims disapproved to be reported to congress.
56. Compensation to claimants whose lands have been disposed of.
57. Testimony before a former board to be *prima facie* evidence.
58. Lands claimed not to be sold until final decision.
59. Fees for recording papers to be pre-paid.
60. Reports to congress.
61. Proceedings where lands are claimed by complete grant or concession. Jurisdiction of the district court. Appeals. Effect of decree.
62. Duration of act.

## XVII. LANDS IN OREGON AND WASHINGTON.

63. Laws extended to lands east of the Cascades.

18 Feb. 1861 § 1.  
12 Stat. 181.

Additional fees  
for services in  
consolidated offices.

Limitation.

*Ibid.* § 2.

Allowance for  
rent and clerk  
hire.

18 Feb. 1861 § 3.

This act to extend to all consolidated offices.

Ibid. § 4.

Allowance to former officers.

19 Feb. 1861 § 1.

12 Stat. 133.

30 May 1862 § 5.

12 Stat. 409.

Discontinuance of land offices.

3. That the provisions of this act be and they are hereby extended to all other consolidated land offices: *Provided*, That this act shall be construed to extend to and provide for all expenses heretofore incurred, by any register or receiver of any such consolidated land office, for additional clerical aid or office room: *Provided further*, That the amount of such indemnity be first approved by the secretary of the interior.

4. It shall be the duty of the secretary of the interior to make a reasonable allowance to former registers of consolidated land offices, for room rent and clerk hire, made necessary by such consolidation, to be paid out of the appropriation for incidental expenses of district land offices, upon satisfactory vouchers actually filed or to be filed.

5. That the 7th section of the act of the 18th of August 1856, (a) "making appropriations for certain civil expenses of the government for the year ending the 30th of June 1857," be and the same is hereby repealed.

6. Upon the recommendation of the commissioner of the general land office, approved by the secretary of the interior, the president may order the discontinuance of any land office, and the transfer of its business and archives to any other land office within the same state or territory.

## II. SURVEYS OF PUBLIC LANDS.

30 May 1862 § 1.

12 Stat. 409.

Ibid. § 2.

Instructions to be deemed part of the contract.

Ibid. § 3.

Prices of surveys to be established.

Accounts.

When patents to issue.

Ibid. § 10.

Settlers in any township may have it surveyed.

Terms.

2 June 1862 § 1.

12 Stat. 410.

All claims and grants to be surveyed by the proper officers.

Titles not to be affected thereby.

7. Contracts for the survey of the public lands shall not become binding upon the United States until approved by the commissioner of the general land office, except in such cases as said commissioner shall otherwise specially order.

8. The printed manual of instructions relating to the public surveys, prepared at the general land office, and bearing date February 22d 1855, the instructions of the commissioner of the general land office, and the special instructions of the surveyor-general, when not in conflict with said printed manual, or the instructions of said commissioner, shall be taken and deemed to be a part of every contract for surveying the public lands of the United States.

9. The commissioner of the general land office shall have power, and it shall be his duty, to fix the prices per mile for public surveys, which shall in no case exceed the maximum established by law; and, under instructions to be prepared by said commissioner, an accurate account shall be kept by each surveyor-general of the cost of surveying and platting private land claims, to be reported to the general land office, with the map of such claim; and patents shall not issue for any such private claim until the cost of survey and platting shall have been paid into the treasury of the United States by the claimant.

10. When the settlers in any township or townships, not mineral or reserved by government, shall desire a survey made of the same, under the authority of the surveyor-general of the United States, and shall file an application therefor in writing, and deposit in a proper United States depository, to the credit of the United States, a sum sufficient to pay for such survey, together with all expenses incident thereto, without cost or claim for indemnity on the United States, it shall and may be lawful for said surveyor-general, under such instructions as may be given him by the commissioner of the general land office, and in accordance with existing laws and instructions, to survey such township or townships, and make return thereof to the general and proper local land office: *Provided*, The townships so proposed to be surveyed are within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.

11. All claims or grants of land in any of the states or territories of the United States, derived from any foreign country or government, shall be surveyed under the direction of the proper officers of the government of the United States, upon the application of the parties claiming or owning the same, and at their expense, which shall be paid or secured to the satisfaction of the secretary of the interior before the work shall be performed; but nothing in the law requiring the executive officers to survey land claimed or granted under any laws of the United States shall be construed, either to authorize such officers to pass upon the validity of the titles granted by or under such laws, or to give any greater effect to the surveys made by them than to make such surveys *prima facie* evidence of the true location of the land claimed or granted, nor shall any such grant be deemed incomplete for the want of a survey or patent, when the land granted may be ascertained without a survey or patent.

## III. SURVEYORS-GENERAL.

14 Mar. 1862 § 4.

12 Stat. 369.

Utah and Colorado to be a surveying district.

12. Until otherwise ordered by the president, the territories of Utah and Colorado shall constitute one surveying district; and the duties of surveyor-general in said district shall be performed by the surveyor-general of Colorado; and the surveying district of Nevada shall be united to that of California, the duties of the surveyor-general of

the former shall be performed by the surveyor-general of California; and the transfer of the effects and archives of the said offices shall be made under the instruction of the commissioner of the general land office.

14 March 1862.

Nevada united to California.

30 May 1862 § 4.  
12 Stat. 409.

13. Upon the recommendation of the commissioner of the general land office, approved by the secretary of the interior, the president may order that the territories of Utah and Colorado shall constitute one surveying district, the duties of surveyor-general in said district to be performed by the surveyor-general of Colorado; and the surveying district of Nevada shall be united to that of California, the duties of the surveyor-general of the former to be transferred to the surveyor-general of California; and the transfer of the effects and archives of the offices to be made under the instructions of the commissioner of the general land office.

Ibid. § 8.

Surveyor-general of New Mexico to act as register and receiver.

14. Until otherwise ordered by the president, the duties of the register and receiver of New Mexico shall be transferred to and devolve upon the surveyor-general of that territory; and it shall and may be lawful for the president, in like manner, to transfer the duties of register and receiver in any district to the surveyor-general where the public interest may require such transfer.

Ibid. § 9.

Salaries of certain surveyors-general.

15. The salary of the surveyor-general of California shall not exceed three thousand dollars per annum, and [the] salaries of the surveyor-general of Oregon and Washington shall not exceed two thousand five hundred dollars each per annum; and should the surveying districts of Utah and Nevada be hereafter established by order of the president, each as an independent district, the salaries of the surveyor-general shall not exceed three thousand dollars each for said districts.

#### IV. REGISTERS AND RECEIVERS.

16. That the act entitled "An act for changing the compensation of receivers and registers of the land offices," approved April 20th 1818, (a) shall be so construed by the proper accounting officers of the government, as to restrict the aggregate amount allowed as compensation for the registers' and receivers' commissions, on moneys received at any land office, in any one calendar year, to the sum of twenty-five hundred dollars each; and that the registers and receivers shall not receive for any one quarter or fractional quarter more than a *pro rata* allowance of said maximum of twenty-five hundred dollars. Their compensation, both for salary and commissions, to commence and be calculated from the time they enter on the discharge of their duties.

2 Feb. 1859 § 1.  
11 Stat. 378.

Compensation of registers and receivers.

17. The compensation of registers and receivers in all the land offices in the United States shall be an annual salary of five hundred dollars to each, with the fees and commissions now prescribed by law, and, to be paid by claimants, an additional fee, in donation cases, of five dollars for each final certificate for one hundred and sixty acres, ten dollars for three hundred and twenty acres, and fifteen dollars for six hundred and forty acres; to be accounted for in the same manner as fees and commissions in warrant and pre-emption locations, with limitations as to maximum of salary prescribed by existing laws, and in accordance with such instructions as shall be given by the commissioner of the general [land] office.

When to commence.

30 May 1862 § 6.  
12 Stat. 409.

Salaries and fees.

#### V. PRE-EMPTION RIGHTS.

18. That the eleventh section of the act of congress, approved September 4th 1841, (b) entitled "An act to appropriate the proceeds of the public lands, and to grant pre-emption rights," be so amended, that appeals from the decisions of the district officers, in cases of contest between different settlers for the right of pre-emption, shall hereafter be decided by the commissioner of the general land office, whose decision shall be final, unless appeal therefrom be taken to the secretary of the interior.

12 June 1858 § 10.  
11 Stat. 326.

By whom appeals to be decided.

19. Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which shall be found to have been made on sections sixteen or thirty-six, said sections shall be subject to the pre-emption claim of such settler; and if they, or either of them, shall have been or shall be reserved or pledged for the use of schools or colleges in the state or territory in which the lands lie, other lands of like quantity are hereby appropriated in lieu of such as may be patented by pre-emptors; and other lands are also hereby appropriated to compensate deficiencies for school purposes, where said sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever: *Provided*, That the lands by this section appropriated, shall be selected and appropriated in accordance with the principles of adjustment and the provisions of the act of congress of May 20th 1826, (c) entitled "An act to appropriate lands for the support of schools, in certain townships and fractional townships not before provided for."

25 Feb. 1859 § 1.  
11 Stat. 385.

Settlers upon school lands, before survey, with a view to pre-emption, to have such right.

Other lands appropriated.

Deficiencies in sections 16 and 36, when fractional, to be compensated for.

How such lands to be selected.

20. In regard to settlements which by existing laws are authorized in certain states

30 May 1862 § 7.  
12 Stat. 410.

(a) Ante 468, pl. 51-2.

(b) Ante 473, pl. 84.

(c) Ante 459, pl. 178.

30 May 1862.

Pre-emption  
rights extended  
to California.When declaratory  
statement to  
be filed.Pre-emption  
right not to ex-  
tend to mineral  
lands.2 June 1862 § 3.  
12 Stat. 413.Graduation act  
repealed.28 Feb. 1859 § 1.  
11 Stat. 387.Money paid for  
lands erroneously  
sold to be re-  
funded.

Ibid. § 2.

If invested,  
stocks to be sold  
to reimburse the  
purchaser.12 June 1858 § 6.  
11 Stat. 336.Laws for sale of  
military sites re-  
pealed.Except Act 18th  
August 1856.3 March 1863 § 1.  
12 Stat. 754.Town sites to be  
reserved from  
sale.

Ibid. § 2.

To be appraised.

And sold in lots.

20 May 1862 § 1.  
12 Stat. 392.Heads of families  
may enter a quar-  
ter section of  
land.

and territories upon unsurveyed lands (which privilege is hereby extended to California), the pre-emption claimant shall be and is hereby in all cases required, from and after the first day of September 1862, to file his declaratory statement within three months from the date of the receipt, at the district land office, of the approved plat of the township embracing such pre-emption settlement: *Provided*, The provisions of this section shall not be held to authorize pre-emption and settlement of mineral lands, which are hereby exempted from the provisions of this act.

## VI. PRICE OF PUBLIC LANDS.

21. That an act entitled "An act to graduate [and reduce] the price of the public lands to actual settlers and cultivators," be and the same is hereby repealed. (a)

## VII. CORRECTION OF ERRORS.

22. That the act of congress, "authorizing repayment for lands erroneously sold by the United States," approved January 12th 1825, (b) be and the same is hereby amended, so as to authorize the secretary of the interior, upon proof being made to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause whatever, the sale cannot be confirmed, to repay to the purchaser or purchasers, or to the legal representatives or assignees of the purchaser or purchasers thereof, the sum or sums of money, which may have been paid therefor, out of any money in the treasury not otherwise appropriated.

23. Whenever any tract of land has been erroneously sold as aforesaid, and the sum or sums of money which may have been paid for the same shall have been invested in any stocks held in trust, or shall have been paid into the treasury of the United States to the credit of any trust-fund, it shall be lawful, by the sale of such portion of the said stocks as may be necessary for that purpose, or out of said trust-fund, for repayment of the purchase-money to be made to the parties entitled thereto.

## VIII. SALE OF MILITARY SITES.

24. That all the existing laws or parts of laws which authorize the sale of military sites which are or may be become useless for military purposes, be and the same are hereby repealed; and said lands shall not be subject to sale or pre-emption under any of the laws of the United States: *Provided further*, That the provisions of the act of August 18th 1856, (c) relative to certain reservations in the state of Florida, shall continue in force.

## IX. RESERVATION OF TOWN SITES.

25. It shall be the duty of the president of the United States to reserve from the public lands, whether surveyed or unsurveyed, town sites on the shores of harbors, at the junction of rivers, important portages or any natural or prospective centres of population.

26. When, in the opinion of the president, the public interests require it, it shall be the duty of the secretary of the interior to cause any of said reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisalment of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterward to be held subject to sale at private entry according to such regulations as the secretary of the interior may prescribe: *Provided*, That no lot shall be disposed of, at public sale or private entry, for less than the appraised value thereof: *And provided further*, That said sales shall be conducted by the register and receiver of the land office in the district in which said reservations may be situated, in accordance with the laws and rules and instructions of the department regulating the sales of public lands.

## X. HOMESTEADS.

27. Any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, and who has never borne arms against the United States government, or given aid and comfort to its enemies, shall, from and after the 1st January 1863, be entitled to enter one quarter section or a less quantity of unappropriated public lands, upon which said person may have filed a pre-emption claim, or which may, at the time the application is made, be subject to pre-emption at one dollar and twenty-five cents or less per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same shall have been surveyed: *Provided*, That any person owning and residing on land may, under the provisions of this act, enter other land lying contiguous

(a) Ante 481, pl. 135.

(b) Ante 484, pl. 147.

(c) Ante 570, pl. 610.

ous to his or her said land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

20 May 1862.

Ibid. § 2.

How application to be made.

Fees.

When certificate and patent to issue.

Affidavit.

Right to vest in children.

Title of purchaser.

Ibid. § 3.

Record of applications.

Ibid. § 4.

Not to be subject to prior debts.

Ibid. § 5.

In case of abandonment, land to revert.

Ibid. § 6.

Not more than one quarter section to be thus acquired.

Rules and regulations to be established.

Pre-emption rights not to be impaired.

Minors to be entitled to the benefit of the act in certain cases.

Ibid. § 7.

28. The person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register or receiver, that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the army or navy of the United States, and that he has never borne arms against the government of the United States, or given aid and comfort to its enemies, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified: *Provided, however,* That no certificate shall be given or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, or at any time within two years thereafter, the person making such entry; or, if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death; shall prove by two credible witnesses that he, she or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he has borne true allegiance to the government of the United States; then, in such case, he, she or they, if at that time a citizen of the United States, shall be entitled to a patent, as in other cases provided for by law: *And provided further,* That in case of the death of both father and mother, leaving an infant child, or children under twenty-one years of age, the right and fee shall inure to the benefit of said infant child or children; and the executor, administrator or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the state in which such children for the time being have their domicile, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States, on payment of the office fees and sum of money herein specified.

29. The register of the land office shall note all such applications on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the general land office, together with the proof upon which they have been founded.

30. No lands acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.

31. If at any time after the filing of the affidavit, as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said land for more than six months at any time, then and in that event the land so entered shall revert to the government.

32. No individual shall be permitted to acquire title to more than one quarter section under the provisions of this act; and the commissioner of the general land office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quantity of land is entered with money, one-half to be paid by the person making the application at the time of so doing, and the other half on the issue of the certificate by the person to whom it may be issued; but this shall not be construed to enlarge the maximum of compensation now prescribed by law for any register or receiver: *Provided,* That nothing contained in this act shall be so construed as to impair or interfere in any manner whatever with existing pre-emption rights: *And provided further,* That all persons who may have filed their applications for a pre-emption right prior to the passage of this act, shall be entitled to all privileges of this act: *Provided further,* That no person who has served, or may hereafter serve, for a period of not less than fourteen days in the army or navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this act on account of not having attained the age of twenty-one years.

33. The fifth section of the act entitled "An act in addition to an act more effectually to provide for the punishment of certain crimes against the United States, and for other



20 May 1862.

Ibid. § 8.

Applicant may  
purchase at min-  
imum price, at  
any time.

purposes," approved the 3d of March, in the year 1857, (a) shall extend to all oaths, affirmations and affidavits required or authorized by this act.

34. Nothing in this act shall be so construed as to prevent any person who has availed him or herself of the benefits of the first section of this act, from paying the minimum price, or the price to which the same may have graduated, for the quantity of land so entered at any time before the expiration of the five years, and obtaining a patent therefor from the government, as in other cases provided by law, on making proof of settlement and cultivation as provided by existing laws granting pre-emption rights.

#### XI. LANDS DONATED TO THE STATES.

2 July 1862 § 1.  
12 Stat. 503.

Lands donated to  
the several  
states.

Ibid. § 2.

How apportioned  
among the states

From what lands  
to be selected.

When scrip to be  
issued.

Location.

Ibid. § 3.

How expenses to  
be paid.

Ibid. § 4.

Proceeds to be in-  
vested.

Interest to be ap-  
plied to collegiate  
purposes.

Ibid. § 5.

Conditions of  
grant.

Fund to be kept  
intact.

35. That there be granted to the several states, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each state a quantity equal to thirty thousand acres for each senator and representative in congress to which the states are respectively entitled by the apportionment under the census of 1860: *Provided*, That no mineral lands shall be selected or purchased under the provisions of this act.

36. The land aforesaid, after being surveyed, shall be apportioned to the several states in sections, or subdivisions of sections, not less than one quarter of a section; and whenever there are public lands in a state subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said state shall be entitled shall be selected from such lands within the limits of such state; and the secretary of the interior is hereby directed to issue to each of the states in which there is not the quantity of public lands subject to sale at private entry at one dollar and twenty-five cents per acre, to which said state may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share: said scrip to be sold by said states and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other use or purpose whatsoever: *Provided*, That in no case shall any state to which land scrip may thus be issued be allowed to locate the same within the limits of any other state, or of any territory of the United States, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States, subject to sale at private entry at one dollar and twenty-five cents or less, per acre: *And provided further*, That not more than one million acres shall be located by such assignees in any one of the states: *And provided further*, That no such location shall be made before one year from the passage of this act.

37. All the expenses of management, superintendence and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the states to which they may belong, out of the treasury of said states, so that the entire proceeds of the sale of said lands shall be applied, without any diminution whatever, to the purposes hereinafter mentioned.

38. All moneys derived from the sale of the lands aforesaid by the states to which the lands are apportioned, and from the sales of land scrip hereinbefore provided for, shall be invested in stocks of the United States, or of the states, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and the moneys so invested shall constitute a perpetual fund, the capital of which shall remain for ever undiminished (except so far as may be provided in section fifth of this act), and the interest of which shall be inviolably appropriated, by each state which may take and claim the benefit of this act, to the endowment, support and maintenance of at least one college, where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the states may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

39. The grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions hereinbefore contained, the previous assent of the several states shall be signified by legislative acts:

I. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the state to which it belongs, so that the capital of the fund shall remain for ever undiminished; and the annual interest shall be regularly applied, without diminution, to the purposes mentioned in the fourth section of this act: except that a sum not exceeding ten per centum upon the amount received by any state under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said states.

II. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretence whatever, to the purchase, erection, preservation or repair of any building or buildings.

III. Any state which may take and claim the benefit of the provisions of this act, shall provide, within five years, at least not less than one college, as described in the fourth section of this act, or the grant to such state shall cease; and said state shall be bound to pay the United States the amount received of any lands previously sold; and the title to purchasers under the state shall be valid.

IV. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters, including state industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail, free, by each, to all the other colleges which may be endowed under the provisions of this act, and also one copy to the secretary of the interior.

V. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the states at the maximum price, and the number of acres proportionately diminished.

VI. No state while in a condition of rebellion or insurrection against the government of the United States, shall be entitled to the benefit of this act.

VII. No state shall be entitled to the benefits of this act, unless it shall express its acceptance thereof by its legislature within two years from the date of its approval by the president.

40. Land scrip issued under the provisions of this act shall not be subject to location until after the first day of January 1863.

41. The land officers shall receive the same fees for locating land scrip issued under the provisions of this act, as is now allowed for the location of military bounty land warrants under existing laws: *Provided*, Their maximum compensation shall not be thereby increased.

42. The governors of the several states to which scrip shall be issued under this act, shall be required to report annually to congress, all sales made of such scrip, until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

## XII. LANDS CEDED TO THE UNITED STATES.

43. For the purpose of realizing as much as may properly be done from unproductive lands, and other property of the United States acquired under judicial proceedings, or otherwise, in the collection of debts, the solicitor of the treasury be, and he is hereby, authorized, with the approval of the secretary of the treasury, to rent, for a period not exceeding three years, or sell any such lands or other property at public sale, after advertising the time, place and conditions of such sale, for three months preceding the same, in some newspaper published in the vicinity thereof, in such manner and upon such terms as may, in his judgment, be most advantageous to the public interests.

## XIII. RECLAMATION OF SWAMP LANDS.

44. That the provisions of the act of congress entitled "An act to enable the state of Arkansas and other states to reclaim the 'swamp lands' within their limits," approved September 28th 1850, (a) be, and the same are hereby, extended to the states of Minnesota and Oregon: *Provided*, That the grant hereby made shall not include any lands which the government of the United States may have reserved, sold or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of the said act.

45. The selection to be made from lands already surveyed in each of the states, including Minnesota and Oregon, under the authority of the act aforesaid, and of the act to aid the state of Louisiana in draining the swamp lands therein, approved March 2d 1849, (b) shall be made within two years from the adjournment of the legislature of each state, at its next session after the date of this act; and, as to all lands hereafter to be surveyed, within two years from such adjournment, at the next session, after notice by the secretary of the interior to the governor of the state, that the surveys have been completed and confirmed.

## XIV. LANDS NORTH OF THE OHIO AND EAST OF THE MISSISSIPPI.

46. To enable persons interested in titles to land in the Vincennes district, Indiana, to perfect the same, and for the transaction of such other business as may require his services, the office of register of the land office at that place shall be continued for the

2 July 1862.

Not to be applied to building purposes. College to be erected within five years.

Annual reports.

Computation of lands.

States in rebellion excluded.

Assent to be given within two years.

*Ibid.* § 6.

*Ibid.* § 7.

Fees.

*Ibid.* § 8.

Annual reports to congress.

3 March 1863 § 9.  
12 Stat. 740.

Unproductive lands may be rented.

12 March 1860 § 1.  
12 Stat. 3.

Act of 1850 extended to Minnesota and Oregon.

*Ibid.* § 2.

Selection to be made within two years.

21 Dec. 1858 § 1.  
11 Stat. 373.

Office at Vincennes continued.

(a) Ante 402, pl. 301-4.

(b) 9 Stat. 352.

- 21 Dec. 1853. period of three years from and after the passage of this act, if, in the opinion of the president of the United States, the public interests so long require it.
- Ibid.* § 2. 47. It shall be the duty of the register, under directions from the secretary of the interior, to issue such patent certificates, or other evidences of title, as may from time to time be necessary, as the basis of patents, for the ancient private claims in that district that have been recognised by various confirmatory laws; and prior to finally closing the district, three months' public notice shall be given thereof.
- Ibid.* § 3. 48. A register shall be appointed by the president under this act, by and with the advice and consent of the senate, which register shall be authorized to perform all such duties, both as register and receiver, as shall be prescribed by the secretary of the interior, and shall receive in full for the same a salary of five hundred dollars per annum, and such fees for pre-emption or bounty-land locations as existing United States laws allow; and in making transcripts of original papers for individuals, said register shall have a right to charge therefor, according to the tariff existing in the local courts of the district.
- Register to perform duties of receiver.  
Salary.  
Fees.
- Ibid.* § 4. 49. The officer so appointed shall be required to reside at Vincennes, and to give bond for the faithful performance of his duties, the safety of the archives in his charge, and the public moneys which may be received by him, in such penalty as the president of the United States may deem necessary.
- Residence.  
Bond.

## XV. LANDS IN FLORIDA.

- 13 April 1860 § 1. 50. Whenever the dividing line between the states of Georgia and Florida shall have been finally surveyed, approved, ratified and confirmed as the boundary between those states, the secretary of the interior shall be and he is hereby authorized to adjudicate upon principles of equity and justice, all claims, under sales or grants by the state of Georgia, to lands which may fall within the state of Florida, and all of said claims which may be approved by him shall be and are hereby ratified and confirmed: *Provided, however,* That the state of Georgia shall first ratify and confirm all sales and grants made by the United States of lands in Florida which may fall within the limits of the state of Georgia under the final adjustment of the boundary line aforesaid.
- 12 Stat. 11.  
Georgia grants to be confirmed.  
Conditions.

## XVI. LAND CLAIMS IN FLORIDA, LOUISIANA AND MISSOURI.

- 22 June 1860 § 1. 51. Any person or persons, and the legal representatives of any person or persons, who claim any lands lying within the states of Florida, Louisiana or Missouri, by virtue of grant, concession, order of survey, permission to settle, or other written evidence of title, emanating from any foreign government, bearing date prior to the cession to the United States of the territory out of which said states were formed, or during the period when any such government claimed sovereignty or had the actual possession of the district or territory in which the lands so claimed are situated, shall be, and they are hereby, authorized to make application for the confirmation of their title to the lands so claimed, in the manner following, to wit: they shall file notices in writing, together with the evidence in support of their claims, before the commissioners hereinafter designated, within whose district the lands claimed may be situated, together with a brief abstract of the title of the claimant, and copies of the plats of survey thereof, whenever such surveys have been made and are within the possession of the claimant, and accompanied with a sworn statement by the claimant of the lands supposed to be covered by his claim, according to the legal divisions and subdivisions of the surveys made by the United States, if the land claimed is included in any surveys so made: and the said notices, evidence and the decisions of the commissioners thereon, shall be recorded in a book kept for that purpose, a transcript of which shall, from time to time, be transmitted to the commissioner of the general land office.
- Claimants to apply to commissioners for confirmation of their titles.  
Proceedings.
- Ibid.* § 2. 52. The registers and receivers of the several land offices in the states of Florida and Louisiana, within their respective land districts, and the recorder of land titles for the city of St. Louis, for the state of Missouri, and their successors in office, shall be, and they are hereby, appointed commissioners to hear and decide, under such instructions as may be prescribed by the commissioner of the general land office in conformity with this act, and according to justice and equity and the principles hereinafter established, in a summary manner, all matters respecting such claims within the districts aforesaid as come within the provisions of this act; they shall have power to administer oaths, compel the attendance of and examine witnesses, demand and obtain from the proper officers all public records in which grants of land, warrants, orders of survey or other evidence of claims to land derived from any foreign government may have been recorded, and shall make a report to the commissioner of the general land office on the claims so presented to them for decision, dividing said claims into separate classes in the manner hereinafter provided, and giving their opinion whether such claims ought to be confirmed or rejected.
- Appointment of commissioners.  
Their powers.

53. The claims so presented and passed upon by the commissioners, as aforesaid, shall be by them divided in their report into three distinct classes, as follows, viz.: 22 June 1860 § 3.

Claims to be classified.

No. 1 shall contain all claims which, in their opinion, ought to be confirmed, where the lands claimed have been in possession and cultivation by the private claimants or those under whom they derive title, for a period of at least twenty years preceding the date of filing the claim, by virtue of some grant, concession or order of survey, permission to settle, or other written evidence of title, emanating from some foreign government which held or claimed sovereignty or jurisdiction over the territory in which the lands claimed are situated, and where the title emanating from such foreign government bears date anterior to the cession of said territory to the United States.

No. 2 shall contain all claims which, in their opinion, ought to be confirmed, where the lands are claimed under written evidence of title, as above provided in class *number one*, but where there has been no actual possession and cultivation of the land claimed for a period of at least twenty years prior to the filing of the claim.

No. 3 shall contain all claims which, in their opinion, ought to be rejected, whether from defect of proof, suspicion of fraud based on probable ground, uncertainty of location, vagueness of description, or any other cause sufficient, in their opinion, to justify such rejection: *Provided*, That in no case shall such commissioners embrace in said classes *number one* and *number two* any claim which has been heretofore presented for confirmation before any board of commissioners or other public officers acting under authority of congress, and rejected as being fraudulent, or procured or maintained by fraudulent or improper means; nor shall any such claim be received or considered by the commissioners, which has been already twice rejected on the merits by previous boards.

Claims heretofore rejected as fraudulent not to be confirmed.

54. Whenever the said commissioner shall approve the report of the commissioners in cases embraced in classes *number one* or *number two*, he shall report the same to congress for its action; and whenever the said commissioner shall approve the report in cases embraced in class *number three*, the rejection of the claim so acted on shall be final and conclusive, and the land embraced within the claim shall be considered and treated as other public lands belonging to the United States.

*Ibid.* § 4.

Duties of commissioner of the land office.

55. All claims comprehended within any of the three classes aforesaid, on which there shall be disapproval by the commissioner of the report made by the boards of commissioners aforesaid, shall be reported to congress for its action and final decision thereon.

*Ibid.* § 5.

Claims disapproved to be reported to congress.

56. Whenever it shall appear that lands claimed, and the title to which may be confirmed under the provisions of this act, have been sold in whole or in part by the United States, prior to such confirmation, or where the surveyor-general of the district shall ascertain that the same cannot be surveyed and located, the party in whose favor the title is confirmed shall have the right to enter upon any of the public lands of the United States a quantity of land equal in extent to that sold by the government: *Provided*, That said entry be made only on lands subject to private entry at one dollar and twenty-five cents per acre, and as far as may be possible, in legal divisions and subdivisions, according to the surveys made by the United States.

*Ibid.* § 6.

Compensation to claimants whose lands have been disposed of.

57. Whenever any claim is presented for confirmation under the provisions of this act, which has heretofore been presented before any board of commissioners under authority of congress, the facts reported as proven by the former board shall be taken as true, *prima facie*; and the evidence offered before such former board, and remaining of record, shall be admitted on the examination of the claims made under the provisions of this act.

*Ibid.* § 7.

Testimony before a former board to be *prima facie* evidence.

58. No land claimed under the provisions of this act shall be offered for sale, or otherwise disposed of by the officers of the United States, until the final decision shall be made on the validity of such claim; and in no case where land is possessed or cultivated by private persons shall it be entered upon or surveyed as public land, or offered for sale, without previous notice given to those in possession, requiring them to present their claims for confirmation; and if within sixty days from the date of such notice such claim shall not have been filed, then the proper officers of the government may proceed to the survey or sale of such lands as public lands, without prejudice, however, to the legal rights of the possessor or claimant, if any he have.

*Ibid.* § 8.

Lands claimed not to be sold until final decision.

59. Before the boards of commissioners shall be required to receive for record any notice, paper, evidence of title, or testimony, in support of any claim, the claimant shall pay to said board the sum of twenty-five cents for every hundred words required to be recorded, which shall be in full consideration for the recording and the transcript required to be forwarded to the commissioner of the general land office.

*Ibid.* § 9.

Fee for recording papers to be prepaid.

60. At the commencement of each regular session of congress, it shall be the duty of

*Ibid.* § 10.

22 June 1860.

Reports to congress.

Ibid. § 11.

Proceedings where lands are claimed by complete grant or concession.

Jurisdiction of the district court.

Appeals.

Effect of decree.

Ibid. § 12.

Duration of act.

29 May 1858 § 1.  
11 Stat. 293.

Laws extended to lands east of the Cascades.

the commissioner of the general land office to make report of all that has been done under the provisions of this act, by the several officers charged with its execution.

61. In any case of such a claim to lands as is hereinbefore in the first section of this act mentioned, where the lands claimed have not been in possession of and cultivated by the original claimant or claimants, or those holding title under him or them, for the period of twenty years aforesaid, and where such lands are claimed by complete grant or concession, or order of survey duly executed, or by other mode of investiture of the title thereto in the original claimant or claimants, by separation thereof from the mass of the public domain, either by actual survey or definition of fixed natural and ascertainable boundaries or initial points, courses and distances by the competent authority, prior to the cession to the United States of the territory in which said lands were included, or where such title was created and perfected during the period while the foreign governments from which it emanated claimed sovereignty over or had the actual possession of such territory, the person or persons, his, her or their heirs, devisees, legal representatives or grantees, so claiming such lands, may, at their option, instead of submitting their claim to the officer or officers hereinbefore mentioned, proceed by petition in any district court of the United States within whose jurisdiction the lands or any part of the lands claimed may lie, unless such claim comes within the purview of the third section of this act; to which petition the United States shall be made defendant, and it shall be verified by the oath of the party or parties, and conform to the provisions of section one of this act, and to the practice of such court in chancery, and the attorney of the United States for such district shall defend against the same for the United States; and the court shall decide the claim valid or invalid according to the principles established in this act, and decree accordingly. If the decree be against the United States, an appeal shall be entered to the supreme court of the United States; and if it be against the claimant or claimants, he or they may take an appeal directly to that court, as of right and course, without affidavit or security other than for costs; and the same shall be adjudged *de novo* in the supreme court, as in other cases of appeals thereto in chancery, and as equity and justice and the principles aforesaid may require; which decision shall be final, and patent shall thereupon issue, if the claim be adjudged valid, for so much of the lands claimed as remain unsold; and for so much as may have been sold, the provisions of section six of this act shall apply and be in force.

62. This act shall be and remain in force during the term of five years, unless sooner repealed by congress; and all claims presented or sued upon, according to the provisions of this act, within the said term of five years, may be prosecuted to final determination and decision, notwithstanding the said term of five years may have expired before such final determination and decision.

#### XVII. LANDS IN OREGON AND WASHINGTON.

63. That the existing laws relating to the survey and disposal of the public lands in the territories of Oregon and Washington, west of the Cascade mountains, be and the same are hereby extended and made applicable also to the lands lying east of said mountains within said territories.

The right of pre-emption does not attach to the alternate odd numbered sections of land reserved to the United States, at the double minimum price, within the six mile limits of the Illinois Central Railroad, after the final allotment of the even numbered sections granted to the state of Illinois, for the benefit of the Illinois Central Railroad Company; which final allotment was completed 4 June 1862. Walker v. Hedrick, 15 Leg. Int. 131; s. c. 21 Law Rep. 181.

Some latitude of discretion is allowed to the surveyor-general, under the act 24 April 1820 (479-80, pl. 129) and the instructions of the land office, in the subdivision of fractional sections containing more than 160 acres; he is not obliged, absolutely, and under all circumstances, to lay off a full quarter or half-quarter section, though the fraction is capable of such a subdivision. Gazzam v. Phillips, 20 How. 372; partially overruling Brown's Lessee v.

Clements, 3 Ibid. 660.

By the act 19 June 1834 (471, pl. 73) the act 23 January 1833 (470, pl. 69) was revived, as a part of the act 29 May 1830 (470, pl. 66). Marks v. Dickson, 20 How. 501.

The act 23 January 1832 (470, pl. 69) did not authorize the assignment of a pre-emption right before entry at the land office.

Ibid.

An entry in a land office, on which a patent issues (no matter how long after the entry is made), relates back to the entry, and takes date with it. French v. Spencer, 21 How. 240.

One who covenants to sell lands which he expects to purchase at a public sale, cannot set up his own fraud in obtaining the title, in bar of a decree for specific performance. Fackler v. Ford, 24 How. 323.

## Library.

### 1. Duplicate and imperfect books to be disposed of.

### 2. Disposition of Statutes at Large.

1. The joint committee on the library may, at any time, dispose of duplicate, injured or wasted books of the library, or any other matter in the library not deemed proper to it, in such manner as such committee may deem best.

5 Feb. 1859 § 9.  
11 Stat. 381.

2. That of the Statutes at Large of the United States, published by Little and Brown, now deposited in the library of congress for the use of senators and representatives during the sessions of congress, ten copies be retained by the librarian for the use of the judges of the supreme court, during the terms of court; and that one-third of the number then remaining in the library be transferred to the senate, and two-thirds to the library of the house of representatives, for the use of the senators and representatives during the sessions of congress.

Duplicate and imperfect books to be disposed of.

Ibid. § 11.

Disposition of Statutes at Large.

## Lighthouses.

### 1. When permanent lighthouses to be substituted for light-vessels.

### 2. When lights may be discontinued.

### 3. Secretary may re-establish lights.

1. That hereafter whenever any of the light-vessels occupying positions which are adapted to the erection of lighthouses upon pile foundations require to be rebuilt, or such extensive repairs as to render the substitution of such lighthouses advisable and practicable, then such permanent structures are authorized to be erected in place of any such light-vessels; *Provided*, That the expense arising from all such changes and erections shall be defrayed from the general annual appropriation for repairs, &c., of light-vessels, unless special appropriations should be made for any such change.

3 March 1859 § 2.  
11 Stat. 424.

When permanent lighthouses to be substituted for light-vessels.

2. That the secretary of the treasury, on the recommendation of the lighthouse board, be and he hereby is authorized, in his discretion, to discontinue from time to time, such lights as may become useless by reason of the mutations of commerce and changes of channels of harbors, and other causes.

Ibid. § 3.

When lights may be discontinued.

3. That the secretary of the treasury, on the recommendation of the lighthouse board, be and he is hereby authorized, in his discretion, to re-establish, from time to time, such lights as may have been, or may hereafter be, discontinued as useless, under the authority conferred by the act of 3d March 1859, (a) entitled "An act making appropriations for lighthouses," and so forth, whenever, in the judgment of the secretary of the treasury, upon the recommendation of the lighthouse board, such re-establishment is required by public convenience or the necessities of commerce.

20 June 1860 § 5.  
12 Stat. 63.

Secretary may re-establish lights.

(a) *Supra* 2.

## Maine.

### 1. District court to be held at Bath instead of Wiscasset.

#### I. DISTRICT COURT.

1. That the district court of the United States now held at Wiscasset, in the district of Maine, on the first Tuesday of September of each year, be hereafter held at Bath, in said district, on the same day in each year.

14 July 1862 § 1.  
12 Stat. 575.

## Marines.

1. Enlistment of minors authorized.
2. Increase of marine force.

3. Appointment of officers.
4. Qualifications.

12 June 1858 § 3.  
11 Stat. 318.

Enlistment of minors authorized.

25 July 1861 § 1.  
12 Stat. 275.

Increase of marine force.

Ibid. § 2.

Appointment of officers.

Ibid. § 3.

Qualifications.

1. It shall be lawful to enlist boys for service in the United States marine corps, with the consent of their parents or guardians, not being under eleven or over seventeen years of age, to serve until they shall arrive at the age of twenty-one years; the boys so enlisted to receive the same pay, rations, clothing, and so forth, now received by boys enlisted in said corps, under the authority of the secretary of the navy.

2. The United States marine corps shall consist of the following officers, non-commissioned officers, musicians and privates, viz.: One colonel commandant, one colonel, two lieutenant-colonels, four majors, one adjutant and inspector, one paymaster, one quartermaster, two assistant quartermasters, twenty captains, thirty first lieutenants, thirty second lieutenants, one sergeant-major, one quartermaster-sergeant, one drum-major, one principal musician, two hundred sergeants, two hundred and twenty corporals, thirty musicians for band, sixty drummers, sixty fifers and twenty-five hundred privates.

3. The commissions of the officers now in the marine corps shall not be vacated by this act; and the president of the United States may, during the recess of the senate, first by promotions, and then by selections, appoint the officers hereby authorized, which appointments shall be submitted to the senate at their next session for their advice and consent.

4. The appointment of commissioned officers to be made under the provisions of this act shall be of persons between the ages of twenty and twenty-five years, and [they] shall be subjected, under the direction of the secretary of the navy, to an examination as to their qualifications for the service to which they are to be appointed.

## Merchant Seamen.

Shipping articles describing "a voyage from Liverpool to Havana, thence (if required) to any ports or places in the West Indies, or wherever freight may offer, and back to a final port of discharge in the United States, or for a term not to exceed twelve months," do not cover a voyage from the West Indies to Boston, and back, during said period. *Peterson v. Gibson*, 20 Law Rep. 380. And see *Ely v. Peck*, 7 Conn. 239. *Brown v. Jones*, 2 Gall. 477. *Smith v. The Brookline*, 8 Law Rep. 70. *Wape v. Hemenway*, 18 Law Rep. 390. *The Varunna*, *Ibid.* 437.

On the discharge of a seaman, his wages become immediately payable; and the act of 1790 (609, pl. 39) does not compel him to wait until the expiration of ten days after the discharge of the cargo, before bringing a suit. *The Cabot*, 1 Abbott 150.

It seems, that seamen employed on board a vessel, forfeited under the act of 1800 (836, pl. 5) as fitted out for the slave trade, are entitled to wages, notwithstanding the forfeiture; if they were not knowingly or willingly connected with the criminal purpose of the voyage. *The Mary Ann*, 1 Abbott 270.

But the crew are not justified, by circumstances affording reasonable ground of suspicion, merely, that the master is about to engage the vessel in the slave trade, in taking possession of her at sea, or in a foreign port, and bringing her back to her home port; and their undertaking so to do, forfeits both the wages already earned, and those for the residue of the voyage. *Ibid.*

Where a whaling voyage is broken up, by a disaster, in a foreign port, the master, on request of the seamen, is authorized to deliver to them, their share of the oil, on the spot; although by the shipping articles, the distribution of proceeds was to be made after the return to the home port. *Hussey v. Fields*, 20 Law Rep. 673.

The general doctrine of the maritime law, as to the nature and effect of desertion, is not displaced by the statutory regulations on the subject. A desertion will work a forfeiture of all wages previously earned, irrespective of any such entry on the log as is necessary to evidence a statutory desertion under the act of 1790. *Burton v. Salter*, 21 Law Rep. 148.

A seaman receiving an injury in the performance of his duty must be cured at the expense of the ship. *Brown v. Overton*, 7 Am. L. R. 413.

The act of 1808 (611, pl. 45), requiring the payment of three months' wages, on the discharge of a seaman in a foreign port, applies to a seaman shipped for a whaling voyage. *Bates v. Seabury*, 21 Law Rep. 666.

Seamen may be discharged in a foreign port, without the approval of a consul, and against their own consent, for aggravated offences, or for such gross and persistent misconduct as shows

them to be disqualified to perform the obligations of their contract. But in all such cases the burden of proof is upon the master to show the reasons of the discharge, and it is incumbent upon him to prove to the satisfaction of the court, that they were clearly just and reasonable. *Nieto v. Clark*, 16 Leg. Int. 354.

The action of a consul in the discharge of seamen in a foreign port, is not conclusive upon the courts, in a subsequent suit for wages. *Campbell v. The Uncle Sam*, 1 McAllister 77. *Hutchinson v. Coombs*, Ware 66.

If the crew of a merchant vessel be put on short allowance, without necessity, in a case not within the provisions of the act 20 July 1790 (613, pl. 62), it is a breach of contract, for which a court of admiralty will give a remedy in the form of extra wages. *The John L. Dimmick*, 9 Am. L. R. 224.

To bring a case within the statute, the short allowance must be during the passage of the vessel, and before her arrival at her port of destination. *Ibid.*

The daily allowance to seamen, in the merchant service, ought to be equivalent to the navy ration. A less amount of provisions will be deemed "short allowance." *Ibid.* *The Mary Paulina*, Sprague 46. If there be a short allowance in any one of the three articles of water, flesh or bread, the seaman is entitled to double wages. *Ibid.*

The statutory forfeiture of wages is not incurred by leaving the vessel after the voyage is ended, but before the cargo is unladen. *Francis v. Bassett*, Sprague 16. *The Martha*, 1 Bl. & How. 151. *Granon v. Hartshorne*, *Ibid.* 463.

The taking of the master's non-negotiable note for wages, and bringing suit thereon, does not bar a proceeding in the admiralty against the vessel. *The Harriet*, Sprague 33. *The Betsy and Rhoda*, Delves 112.

An action *in personam* for wages may be commenced before the expiration of ten days after the discharge of the cargo. *The Commerce*, Sprague 34.

A demand and refusal by the owner to pay till after ten days, does not constitute such a dispute as will authorize the immediate issue of process *in rem*. *Ibid.*

It is not necessary that a seaman shipped in a foreign port should sign articles. *Gladding v. Constant*, Sprague 73.

There are three cases in which admiralty process may issue for seamen's wages before the expiration of ten days after the discharge of the cargo: 1. If a dispute has arisen. 2. If the vessel has departed from the port of her discharge. 3. If she is about to proceed to sea. *The William Jarvis*, Sprague 485.

It is optional with the seaman, either to summon the master, or make direct application for admiralty process. *Ibid.*

# Michigan.

## I. LAND OFFICES.

1. Saginaw land district enlarged. Detroit district enlarged.
2. Boundaries corrected.
3. Lake Superior district enlarged.

## II. CIRCUIT AND DISTRICT COURTS.

4. Term of circuit court to be held at Detroit.
5. Terms of circuit and district courts.
6. State divided into judicial districts. Western district.
- Eastern district.
7. Terms of the district courts.

8. Trial of pending causes. Removal of records.

9. Removal of pending causes.
10. Judge of eastern district.
11. Final process in pending causes.
12. Judge of western district.
13. District attorney and marshal.
14. Where transitory actions to be brought.

## III. COLLECTION DISTRICTS.

15. Port of entry established at Sault Ste. Marie instead of Michilimackinack.

## I. LAND OFFICES.

1. That all that part of the present Cheboygan district, in the state of Michigan, which lies south of the line dividing townships twenty-eight and twenty-nine north, and east of the line dividing ranges two and three west, shall be attached to and form a part of the present Saginaw district; and all that part of the said Cheboygan district which lies north of the line dividing townships twenty-eight and twenty-nine north, and east of the line dividing ranges [one and two] west, including the island of Mackinac, be attached to and form a part of the Detroit district, in said state.

11 May 1858 § 1.  
11 Stat. 236.

Saginaw district enlarged.  
Detroit district enlarged.

2. That an error in the act approved May 11th 1858, entitled "An act to enlarge the Detroit and Saginaw land districts in the state of Michigan," be corrected, by extending the limits of that portion of the Cheboygan district which has been attached to the Detroit district, to the line dividing ranges two and three west, instead of one and two west, the former being the line intended by the department as the western boundary of the addition to the Detroit district.

2 June 1858 § 1.  
11 Stat. 370.

Boundaries corrected.

3. That all that portion of the present Cheboygan district, in the state of Michigan, lying west of Lake Michigan and south of the line dividing townships forty-one and forty-two north, including Saint Martin's and the adjacent islands near the entrance to Big Bay De Noc, now forming a part of the present Cheboygan district, and subject to sale at Traverse City, in said state, be and the same is hereby attached to the Lake Superior district, and the lands therein be subject to sale and entry at the site of the land office for said district.

16 July 1862 § 1.  
12 Stat. 567.

Lake Superior district enlarged.

## II. CIRCUIT AND DISTRICT COURTS.

4. In addition to the courts now provided by law to be held in the district of Michigan, a general term of the circuit court of the United States for said district of Michigan shall be held annually at the court room in the city of Detroit, on the second Monday of February; and all writs, bills, pleas, suits, appeals, recognisances, indictments and all other proceedings, civil and criminal, shall be proceeded with at said term, in like manner as now at the June and October terms of said court.

14 July 1862 § 1.  
12 Stat. 574.

Term of circuit court at Detroit.

5. Instead of the terms now fixed by law, the circuit and district courts of the United States for the several districts composing the seventh judicial district shall hereafter be held as follows: Michigan.—At Detroit, for the district of Michigan, on the first Tuesdays in June, November and March in each year. And all recognisances, indictments or other proceedings, civil and criminal, now pending in either of said courts, shall be entered and have day in court, and be heard and tried, according to the times of holding said courts as herein provided.

21 Feb. 1863 § 1.  
12 Stat. 657.

Terms of circuit and district courts.

6. That the state of Michigan be and the same is hereby divided into two judicial districts, in the following manner, namely: the eastern and western districts. The western district shall embrace all the territory and waters within the following boundaries, to wit: commencing at the south-west corner of Hillsdale county, in the state of Michigan, and running from thence north, on the west line of said county, to the south line of Calhoun county; thence east, on the south line thereof, to the south-east corner of said last-named county; thence north, on the east boundary of said county, to the south line of Eaton county; thence east, on said south line, to the south-east corner of Eaton county; thence north, on the east boundary of Eaton county, to the south line of Clinton county; thence west, on the south boundary of said county, to the south-west corner thereof; thence north, on the west boundary of Clinton and Gratiot counties, to the south boundary of Isabella county; thence west, on its south boundary, to the south-west corner of said last-named county; thence north, on the west line of Isabella and Clare counties, to the south boundary of Missaukee county; thence east, on its south boundary, to the south-east corner of Missaukee county; thence north, on the east line of Missaukee, Kalamazoo and Antrim counties, to the south boundary [of] Emmet county;

24 Feb. 1863 § 1.  
12 Stat. 660.

State divided into judicial districts.

Western district.



24 February 1863. thence east to the south-east corner of Emmet county; thence north, on the east boundary of Emmet county, to the Straits of Mackinac; thence north to midway across said straits; thence westerly, in a direct line, to a point on the shore of Lake Michigan, where the north boundary of Delta county reaches Lake Michigan; thence west, on the north line of Delta county, to the north-west corner of said Delta county; thence south, on the west boundary of said county, to the dividing line between the states of Michigan and Wisconsin in Green Bay; thence north-easterly, on the said dividing line, into Lake Michigan; and thence southerly, through Lake Michigan, to the south-west corner of the state of Michigan, on a line that will include within said boundaries the waters of Lake Michigan within the admiralty jurisdiction of the state of Michigan; thence east, on the south boundary of the state of Michigan, to the intersection of the west line of Hillsdale county. The judicial centre of which district shall be at Grand Rapids, in the county of Kent, where the courts of said district shall be held. The eastern district shall embrace all the other territory of the state of Michigan and all other waters of said state not embraced within the foregoing boundaries of said western district. The judicial centre of said eastern district shall be at Detroit, in the county of Wayne, where the courts of said district shall be held.

Eastern district.

Ibid. § 2.

Terms of the district courts.

7. There shall be two terms of the circuit and district courts begun and held in each of said districts, to wit: at the city of Detroit, for the eastern district, on the first Tuesday in June, November and March in each year; and at the city of Grand Rapids, for the western district, on the third Monday of May and third Monday of October in each year. And the said courts are hereby authorized to hold adjourned terms when the business before the courts shall, in the opinion of the court, require it.

Ibid. § 3.

Trial of pending causes.

8. All suits and other proceedings, of whatever name or nature, now pending in the circuit or district courts of the United States for the district of Michigan, shall be tried and disposed of in the circuit and district courts respectively, for the eastern district of Michigan, in the same manner as the same would have been in case said state had not been divided into two districts; and for that purpose the jurisdiction is reserved to said courts in the eastern district. And the clerk of the circuit and district courts for the present district of Michigan shall remove the records and files of the said circuit and district courts to the city of Detroit, and do and perform all the duties appertaining to his office within the eastern district; and all process and other proceedings taken or issued, or made returnable to the circuit or district court for the present district of Michigan, shall be returnable at the next term of the said courts respectively, in the eastern district of Michigan.

Removal of records.

Ibid. § 4.

Removal of pending causes.

9. Upon the application of any party to any suit now pending, which would have been commenced in the western district if this act had been in force before the commencement of said suit, the proper court may, and, if all parties consent, shall order that the same be removed for further proceedings to the proper court for the western district; and thereupon the clerk shall transmit all the papers in the cause, with a transcript of the order of the removal, to the clerk of the court to which the said suit shall be removed; and all further proceedings shall be had in said court as if the suit had been originally commenced therein.

Ibid. § 5.

Judge of eastern district.

10. That the present judge of the district of Michigan be and he is hereby assigned to hold said courts in the eastern district of Michigan, and shall exercise the same jurisdiction and perform the same duties within said district, as he now exercises and performs within his present district.

Ibid. § 6.

Final process in pending causes.

11. Final process upon any judgment or decree entered in the circuit or district court of the United States for the district of Michigan, and all other process for the enforcement of any order of said courts respectively, in any cause now pending therein, except causes removed as hereinbefore provided, shall be issued from and made returnable to the proper court for the eastern district of Michigan, and may run and be executed by the marshal of said eastern district in any part of said state.

Ibid. § 7.

Judge of western district.

12. That there be appointed a district judge for the said western district of Michigan, who shall possess the same powers and do and perform all such duties in his district, as are now enjoined or in any wise appertaining to the present district judge for the district of Michigan; and the district judge of each district shall be entitled to the same compensation as by law is provided for the present judge for the district of Michigan.

Ibid. § 8.

District attorney and marshal.

13. That there be appointed one person as district attorney, and one person as marshal for said western district, whose terms of appointment and service, as well as duties and emoluments, shall be the same with those respectively appertaining to the said offices in the district of Michigan. And said marshal shall give the same bond that other marshals are required to give, to be approved and recorded as now directed by law: *Provided*, That the present district attorney of the district of Michigan shall be the district attorney of the eastern district, and retain the charge of all suits already com-

menced until final termination, unless the president of the United States shall otherwise direct, and the present marshal of the district of Michigan shall be the marshal of the eastern district, during their respective official terms. 24 February 1863.

14. All suits hereafter to be brought in either of said courts not of a local nature, shall be brought in the court of the district where the defendant resides; but if there be more than one defendant, and they reside in different districts, the plaintiff may sue in either, and send a duplicate writ against the defendants, directed to the marshal of the other district, on which an indorsement shall be made that the writ thus sent is a copy of a writ sued out of the court of the proper district; and the said writs, when executed and returned into the office from whence they issued, shall constitute one suit, and be proceeded in accordingly.

Ibid. § 9.

Where transitory actions to be brought.

### III. COLLECTION DISTRICTS.

15. That Michilimackinack, in the district of Michilimackinack, is hereby discontinued as a port of entry, and that the port of entry for the district be, and is hereby, established at Sault Ste. Marie, at which place the collector of the district shall reside, and a deputy collector shall reside at Michilimackinack. 3 March 1863 § 4. 12 Stat. 761.

Port of entry at Sault Ste. Marie.

## Militia.

1. President to provide for enrolling the militia. Apportionment. 2. When called into service, to be organized as volunteers.

1. Whenever the president of the United States shall call forth the militia of the states, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceeding nine months; and the militia so called shall be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the president. (a) If, by reason of defects in existing laws, or in the execution of them, in the several states, or any of them, it shall be found necessary to provide for enrolling the militia (b) and otherwise putting this act into execution, the president is authorized in such cases to make all necessary rules and regulations; (c) and the enrolment of the militia shall in all cases include all able-bodied male citizens between the ages of eighteen and forty-five, (d) and shall be apportioned among the states according to representative population. 17 July 1862 § 1. 12 Stat. 597.

President to provide for enrolling the militia.

2. The militia, when so called into service, shall be organized in the mode prescribed by law for volunteers.

Ibid. § 2.

(a) The state legislatures cannot constitutionally provide for the enrolment in the militia of any persons other than those enumerated in the act of congress of 8 May 1792 (519, pl. 1), 8 Am. L. R. 167, 172. 22 Law Rep. 477. If a person not liable to militia duty be enrolled and do not claim his exemption of the commissioner of the proper district, but suffers himself to be mustered into the service, and remains therein for one month before instituting proceedings for his release, it is evidence of a voluntary submission to the draft. Commonwealth v. Rogers, 10 Pittsburgh Leg. J. 178. And see Stevens's Case, 24 Law Rep. 205.

(b) When a militiaman duly called into the military service of the United States, has disobeyed an order to attend at a rendezvous, his subjection to military discipline and organization is compellable by military force. McCall's Case, 20 Leg. Int. 108, 292.

A drafted militiaman called out under this act cannot pay a fine in lieu of service. Commonwealth v. Andress, 10 Pittsburgh Leg. J. 211.

(c) A man cannot be lawfully drafted unless his name have previously been accurately enrolled. A misnomer in the enrolment vitiates the draft. McCall's Case, 20 Leg. Int. 108, 292. Affirmed in Robinson's Case, District Court, Penn., Cadwalader, J. 5 Sept. 1863. MS. Where the draft is void, it requires some new contract of service, voluntarily entered into, to make it binding. Commonwealth v. Hierer, 10 Pittsburgh Leg. J. 185.

(d) The order of the president, under this act, has all the force of an act of congress. Commonwealth v. Andress, 10 Pittsburgh Leg. J. 211.

## Minnesota.

### I. ADMISSION INTO THE UNION.

1. State government. Boundaries.
2. Concurrent jurisdiction on the Mississippi, &c. To be common highways.
3. Propositions. School lands. Grant for a university. Lands for public buildings. Salt springs. Five per cent. of proceeds of public lands for improvements.
4. Conditions. Not to interfere with the disposal of the public lands. Public lands not to be taxed; nor lands of non-residents higher than those of residents.
5. Minnesota admitted into the Union.

### II. CIRCUIT AND DISTRICT COURTS.

6. Laws of the United States extended to Minnesota. District

court. Pending appeals.

7. Terms of the court. Clerk.
8. Session transferred from Preston to Mankato.
9. Terms of the circuit court.

### III. LAND OFFICES.

10. Two additional districts. North-eastern district. North-western district. Location of offices.
11. Registers and receivers.
12. Sales of lands.
13. Boundaries of north-western district altered.
14. Boundary between north-eastern and north-western districts.

### I. ADMISSION INTO THE UNION.

1. That the inhabitants of that portion of the territory of Minnesota which is embraced within the following limits, to wit: beginning at the point in the centre of the main channel of the Red river of the North, where the boundary line between the United States 26 Feb. 1857 § 1. 11 Stat. 166.

State government.

26 February 1857. and the British possessions crosses the same; thence, up the main channel of said river to that of the Boix des Sioux river; thence [up] the main channel of said river, to Lake Travers; thence, up the centre of said lake, to the southern extremity thereof; thence, in a direct line, to the head of Big Stone lake; thence, through its centre, to its outlet; thence, by a due south line, to the north line of the state of Iowa; thence east, along the northern boundary of said state, to the main channel of the Mississippi river; thence, up the main channel of said river, and following the boundary line of the state of Wisconsin, until the same intersects the St. Louis river; thence, down said river, to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British possessions; thence, up Pigeon river, and following said dividing line, to the place of beginning—be and they are hereby authorized to form for themselves a constitution and state government, by the name of the state of Minnesota, and to come into the Union on an equal footing with the original states, according to the federal constitution.

**Ibid. § 2.**  
**Concurrent jurisdiction on the Mississippi, &c.**  
**To be common highways.**  
 2. The said state of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said state of Minnesota, so far as the same shall form a common boundary to said state, and any other state or states now or hereafter to be formed or bounded by the same. And said river and waters, and the navigable waters leading into the same, shall be common highways, and for ever free, as well to the inhabitants of said state, as to all other citizens of the United States, without any tax, duty, impost or toll therefor.

**Ibid. § 5.**  
**Propositions.**  
 3. That the following propositions be and the same are hereby offered to the said convention of the people of Minnesota, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said state of Minnesota, to wit:—

**School lands.**  
 I. That sections numbered sixteen and thirty-six in every township of public lands in said state, and where either of said sections, or any part thereof, has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to said state for the use of schools.

**Grant for a university.**  
 II. That seventy-two sections of land shall be set apart and reserved for the use and support of a state university, to be selected by the governor of said state, subject to the approval of the commissioner of the general land office; and to be appropriated and applied in such manner as the legislature of said state may prescribe for the purpose aforesaid, but for no other purpose.(a)

**Lands for public buildings.**  
 III. That ten entire sections of land, to be selected by the governor of said state, in legal subdivisions, shall be granted to said state, for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof.

**Salt springs.**  
 IV. That all salt springs within said state, not exceeding twelve in number, shall be granted to said state for its use; the same to be selected by the governor thereof, within one year after the admission of said state; and, when so selected, to be used and disposed of, on such terms, conditions and regulations as the legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall, by this article, be granted to said state.

**Five per cent. of proceeds of lands for public improvements.**  
 V. That five per centum of the net proceeds of sales of all public lands lying within said state, which shall be sold by congress after the admission of the said state into the Union, after deducting all the expenses incident to the same, shall be paid to said state, for the purpose of making public roads and internal improvements as the legislature shall direct.

**Conditions.**  
 4. *Provided*, The foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said state, shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said state shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States; and that in no case shall non-resident proprietors be taxed higher than residents.

**Not to interfere with the disposal of the public lands.**  
**Taxation.**  
 5. Whereas an act of congress was passed February 26th 1857, entitled "An act to authorize the people of the territory of Minnesota to form a constitution and state government preparatory to their admission into the Union on an equal footing with the original states;" and whereas the people of said territory did, on the 29th day of August 1857, by delegates elected for that purpose, form for themselves a constitution and state

11 May 1858 § 1.  
 11 Stat. 286.  
 Minnesota admitted into the Union.

(a) See act 19 February 1851, 9 Stat. 508; and 2 March 1861, 12 Stat. 206.

government, which is republican in form, and was ratified and adopted by the people, at an election held on the 13th day of October 1857, for that purpose: therefore, *Be it enacted*, That the state of Minnesota shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original states in all respects whatever.

11 May 1858.

## II. CIRCUIT AND DISTRICT COURTS.

6. From and after the admission of the state of Minnesota, as hereinbefore provided, all the laws of the United States which are not locally inapplicable shall have the same force and effect within that state as in other states of the Union; and the said state is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Iowa, shall be established; the judge, attorney and marshal of the United States for the said district of Minnesota shall reside within the same, and shall be entitled to the same compensation as the judge, attorney and marshal of the district of Iowa. And in all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States, upon any record from the supreme court of Minnesota territory, the mandate of execution or order of further proceedings shall be directed by the supreme court of the United States to the district court of the United States for the district of Minnesota, or to the supreme court of the state of Minnesota, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Minnesota territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

11 May 1858 § 3.  
11 Stat. 285.Laws of the  
United States ex-  
tended to Minne-  
sota.

District court.

Pending appeals.

7. The judge of the district court for the district of Minnesota shall hold a term of said court in each year at the following places, to wit: at Preston, to commence on the first Monday in June, and at St. Paul on the first Monday in October. The judge of the said court shall appoint a clerk for said district, who shall reside at and keep the records and papers of said court at either of the places herein designated for the holding of said court, as the judge in his discretion shall direct.

8 March 1859 § 1.  
11 Stat. 402.Terms of the  
court.

Clerk.

8. The judge of the district court for the district of Minnesota is hereby required to hold a term of said court in each year at Mankato, to commence on the first Monday in June, instead of at Preston, as now required by law; and so much of the act of congress approved March 3d 1859, requiring the said judge to hold a term of said court at Preston, is hereby repealed.

2 March 1861 § 7.  
12 Stat. 220.Session trans-  
ferred from Pres-  
ton to Mankato.

9. The circuit court for the district of Minnesota shall be holden in each and every year at St. Paul, on the third Monday of June and October.

13 Jan. 1863 § 1.  
12 Stat. 634.Terms of circuit  
court.8 July 1856 § 1.  
11 Stat. 28.Two additional  
districts.North-eastern  
district.North-western  
district.Location of off-  
ces.

## III. LAND OFFICES.

10. That all that portion of the territory of Minnesota which lies north of the line dividing townships forty-five and forty-six, north of the base line east of the Mississippi river, and north of the nearest township line, to be determined hereafter by the commissioner of the general land office, west of said river, extending thence west to the Missouri river, be and the same is hereby divided into, and shall constitute two additional land districts, to wit: All that portion lying east of the line dividing ranges eighteen and nineteen west of the fourth principal meridian, shall constitute a land district, to be called the North-eastern land district: and all that portion west of the line dividing ranges eighteen and nineteen shall constitute an additional land district in said territory, to be called the North-western land district; the location of the offices for which shall be designated by the president of the United States, and shall, by him, from time to time be changed, as the public interests may require.

Ibid. § 2.

11. That the president be and he is hereby authorized, whenever, in his judgment, the public interest shall require, to appoint, by and with the advice and consent of the senate (or during the recess thereof, and until the end of the next session of congress after such appointment), a register and receiver for each or either of the districts hereby created; who shall, respectively, be required to reside at the site of their offices, have the same powers, responsibilities and emoluments, and be subject to the same acts and penalties which are or may be prescribed by law, in relation to other land offices of the United States.

Registers and re-  
ceivers.

12. The president is authorized to cause the public lands in said districts, with the exception of such as have been or may be reserved for other purposes, to be exposed to sale, in the same manner, and upon the same terms and conditions as other public lands of the United States.

Ibid. § 3.

Sales of lands.

13. That so much of an act entitled "An act to establish two additional land districts in the territory of Minnesota," approved July 8th, Anno Domini 1856, as defines the southern boundary of the North-western land district, on the west side of the Mississippi river, be and the same is hereby repealed, and in lieu thereof the following boundaries

11 May 1858 § 1  
11 Stat. 284.Boundaries of  
north-western  
district altered

11 May 1858.

are established, to wit: Commencing at the point on the eastern side of the Mississippi river where the present south line touches the river; thence down said river to the point opposite the intersection with the river of the eighth standard parallel; thence along said parallel to the point of intersection of guide meridian number four; thence along said guide meridian to the seventh standard parallel; thence west along said seventh parallel to the Sioux Wood river; thence north to the line heretofore established.

Ibid. § 2.

Boundary between north-eastern and north-western districts.

14. That the line dividing ranges twenty-three and twenty-four be the boundary line between the North-western and North-eastern land districts, in lieu of the range line between eighteen and nineteen, as heretofore established in the above-recited act.

## Mint.

### I. ASSAY AND COINAGE OF BULLION.

1. Act limiting amount of bullion to be received for refining extended to assay office.

### II. BRANCHES OF THE MINT.

2. Branch mint at Denver.
3. Officers. Salaries.
4. To give bond.
5. Powers of director of the mint.
6. To be a depository for public moneys.

7. Certificates of deposit may be issued.
8. General laws extended to this branch.
9. Branch mint at Carson City.
10. Officers. Salaries.
11. Oath of office. Bonds.
12. Powers of director of the mint.
13. To be a public depository.
14. Drafts to be issued for gold dust.
15. Laws regulating the mint extended to this branch.

### I. ASSAY AND COINAGE OF BULLION.

20 Feb. 1861 § 3.  
12 Stat. 144.

Act limiting amount of bullion to be received for refining, extended to assay office.

1. The provisions of the 5th section of chapter 97 of the act of congress approved March 3d 1853, (a) requiring the secretary of the treasury to limit the amount of refining at the mint, whenever private establishments shall be capable of refining bullion, shall be extended to the several branches of the mint, and to the United States assay office at New York, in all cases where deposits of bullion are made for coins or fine bars.

### II. BRANCHES OF THE MINT.

21 April 1862 § 1.  
12 Stat. 382.

Ibid. § 2.  
Officers of branch mint at Denver.

Salaries.

2. That a branch of the mint of the United States be located and established at Denver, in the territory of Colorado, for the coinage of gold.

3. For carrying on the business of said branch, the following officers shall be appointed as soon as the public interest shall require their service, upon the nomination of the president, by and with the advice and consent of the senate, namely: one superintendent, one assayer, one melter and refiner, and one coiner; and the said superintendent shall employ as many clerks, subordinate workmen and laborers, under the direction of the secretary of the treasury, as may be required. The salaries of the said officers shall be as follows: to the superintendent, the sum of two thousand dollars; to the assayer, the sum of eighteen hundred dollars; to the melter and refiner, eighteen hundred dollars; to the coiner, eighteen hundred dollars; to the clerks, subordinate workmen and laborers, such wages and allowances as are customary according to their respective stations and occupations.

Ibid. § 3.  
To give bond.

4. The officers and clerks to be appointed under this act, before entering upon the execution of their offices, shall take an oath or affirmation, before some judge of the United States or of the supreme court of said territory, faithfully and diligently to perform the duties of their offices; and shall each become bound to the United States of America, with one or more sureties, to the satisfaction of the director of the mint, or the secretary of the territory of Colorado, and of the secretary of the treasury, with the condition of the faithful performance of the duties of their offices.

Ibid. § 4.  
Powers of director of the mint.

5. The general direction of the business of said branch of the mint of the United States shall be under the control and regulation of the director of the mint at Philadelphia, subject to the approbation of the secretary of the treasury; and for that purpose it shall be the duty of the said director to prescribe such regulations, and require such returns periodically and occasionally, and to establish such charges for parting, assaying, refining and coining, as shall appear to him to be necessary for the purpose of carrying into effect the intention of this act in establishing said branch; also for the purpose of preserving uniformity of weight, form and finish in the coin stamped at said branch.

Ibid. § 5.  
To be a depository for public moneys.

6. Said branch mint shall be a place of deposit for such public moneys as the secretary of the treasury may direct. And the superintendent of said branch mint, who shall perform the duties of treasurer thereof, shall have the custody of the same, and also perform the duties of assistant treasurer; and for that purpose shall be subject to all the provisions contained in an act entitled "An act to provide for the better organiza-

tion of the treasury, and for the collection, safe-keeping, transfer and disbursement of the public revenue," approved August 6th 1846,(a) which relates to the treasury of the branch mint at New Orleans.

7. That the superintendent of said branch mint be authorized, under the direction of the secretary of the treasury, and on terms to be prescribed by him, to issue in payment of the gold dust and bullion deposited for assay and coinage or bars, drafts or certificates of deposit, payable at the treasury or any sub-treasury of the United States, to any depositor electing to receive payment in that form.

21 April 1862.

*Ibid.* § 6.

Certificates of deposit may be issued.

8. All the laws and parts of laws now in force for the regulation of the mint of the United States, and for the government of the officers and persons employed therein, and for the punishment of all offences connected with the mint or coinage of the United States, shall be and they are hereby declared to be in full force in relation to the branch of the mint by this act established, as far as the same may be applicable thereto.

*Ibid.* § 7.

General laws extended to this branch.

9. That a branch of the mint of the United States be located and established at Carson City, in the territory of Nevada, for the coinage of gold and silver.

3 March 1863 § 1.  
12 Stat. 770.

10. For carrying on the business of said branch, the following officers shall be appointed, as soon as the public interest shall require their service, upon the nomination of the president, by and with the advice and consent of the senate, namely: one superintendent, one assayer, one melter and refiner, and one coiner; and the said superintendent shall employ as many clerks, subordinate workmen and laborers, under the direction of the secretary of the treasury, as may be required. The salaries of the said officers shall be as follows: to the superintendent, the sum of two thousand dollars; to the assayer, the sum of eighteen hundred dollars; to the melter and refiner, eighteen hundred dollars; to the clerks, subordinate workmen and laborers, such wages and allowances as are customary, according to their respective stations and occupations.

Branch mint at Carson City.

*Ibid.* § 2.

Appointment of officers.

Salaries.

11. The officers and clerks to be appointed under this act, before entering upon the execution of their offices, shall take an oath or affirmation, before some judge of the United States or of the supreme court of said territory, faithfully and diligently to perform the duties of their offices; and shall each become bound to the United States of America, with one or more sureties, to the satisfaction of the director of the mint, or the secretary of the territory of Nevada, and of the secretary of the treasury, with the condition of the faithful performance of the duties of the offices.

*Ibid.* § 3.

Oath of office.

Bonds.

12. The general direction of the business of said branch of the mint of the United States shall be under the control and regulation of the director of the mint at Philadelphia, subject to the approbation of the secretary of the treasury; and for that purpose it shall be the duty of the said director to prescribe such regulations and require such returns periodically and occasionally, and to establish such charges for parting, assaying, refining and coining as shall appear to him to be necessary for the purpose of carrying into effect the intention of this act in establishing said branch; also for the purpose of preserving uniformity of weight, form and finish in the coin stamped at said branch.

*Ibid.* § 4.

Powers of director of the mint.

13. Said branch mint shall be a place of deposit for such public moneys as the secretary of the treasury may direct. And the superintendent of said branch mint, who shall perform the duties of treasurer thereof, shall have the custody of the same, and also perform the duties of assistant treasurer; and for that purpose shall be subject to all the provisions contained in an act entitled "An act to provide for the better organization of the treasury, and for the collection, safe-keeping, transfer and disbursement of the public revenue," approved August 6th 1846,(a) which relates to the treasury of the branch mint at New Orleans.

*Ibid.* § 5.

To be a public depository.

14. That the superintendent of said branch mint be authorized, under the direction of the secretary of the treasury, and on terms to be prescribed by him, to issue in payment of the gold dust and bullion deposited for assay and coinage or bars, drafts or certificates of deposit, payable at the treasury or any sub-treasury of the United States, to any depositor electing to receive payment in that form.

*Ibid.* § 6.

Drafts to be issued for gold dust.

15. All the laws and parts of laws now in force for the regulation of the mint of the United States, and for the government of the officers and persons employed therein, and for the punishment of all offences connected with the mint or coinage of the United States, shall be and they are hereby declared to be in full force in relation to the branch of the mint by this act established, as far as the same may be applicable thereto.

*Ibid.* § 7.

Laws regulating the mint extended to this branch.

(a) See ante, tit. "Treasury Department." 43.

# Navigation.

## I. TONNAGE DUTIES.

1. Tonnage duties increased.

ture. To be condemned and sold.

3. Commanders of public ships to seize such vessels.

4. And collectors and marshals.

## II. PROTECTION OF COMMERCE.

2. Vessels fitted out for piratical purposes to be liable to cap-

## I. TONNAGE DUTIES.

14 July 1862 § 15.  
12 Stat. 568.

Tonnage duties  
increased.

1. Upon all ships, vessels or steamers which, after the 31st day of December 1862, shall be entered at any custom-house in the United States, from any foreign port or place, or from any port or place in the United States, whether ships or vessels of the United States, or belonging wholly or in part to subjects of foreign powers, there shall be paid a tax or tonnage duty of ten cents per ton of the measurement of said vessel, in addition to any tonnage duty now imposed by law: *Provided*, That the said tax or tonnage duty shall not be collected more than once in each year on any ship, vessel or steamer having a license to trade between different districts of the United States, or to carry on the bank, whale or other fisheries, whilst employed therein, or on any ship, vessel or steamer, to or from any port or place in Mexico, the British provinces of North America, or any of the West India islands: (a) *Provided also*, That nothing in this act contained shall be deemed in anywise to impair any rights and privileges which have been, or may be acquired by any foreign nation, under the laws and treaties of the United States relative to the duty on tonnage of vessels: *Provided further*, That so much of the act of August 18th 1856, entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," as prohibits the export thereof, is hereby suspended for one year from and after the passage of this act. (b)

## II. PROTECTION OF COMMERCE.

5 August 1861 § 1.  
12 Stat. 314.

Vessels fitted out  
for piratical pur-  
poses to be liable  
to capture.

2. Any vessel or boat which shall be built, purchased, fitted out in whole or in part, or held for the purpose of being employed in the commission of any piratical aggression, search, restraint, depredation, or seizure, or in the commission of any other act of piracy, as defined by the law of nations, shall be liable to be captured and brought into any port of the United States, if found upon the high seas, or to be seized, if found in any port or place within the United States, whether the same shall have actually sailed upon any piratical expedition or not, and whether any act of piracy shall have been committed or attempted upon or from such vessel or boat or not; and any such vessel or boat may be adjudged and condemned, if captured by a vessel authorized as herein-after mentioned, to the use of the United States and to that of the captors, and if seized by a collector, surveyor or marshal, then to the use of the United States, after due process and trial, in like manner as is provided in section four of the act to which this act is supplementary, which section is hereby made in all respects applicable to cases arising under this act. (c)

To be condemned  
and sold.

*Ibid.* § 2.

Commanders of  
public ships to  
seize such vessels

3. That the president of the United States be and hereby is authorized to instruct the commanders of the public armed vessels of the United States, and to authorize the commanders of any other armed vessels sailing under the authority of any letters of marque and reprisal granted by the congress of the United States, or the commanders of any other suitable vessels, to subdue, seize, take, and, if on the high seas, to send into any port of the United States, any vessel or boat built, purchased, fitted out, or held, as in the first section of this act mentioned.

*Ibid.* § 3.

And collectors  
and marshals.

4. The collectors of the several ports of entry, the surveyors of the several ports of delivery, and the marshals of the several judicial districts within the United States, be and are hereby authorized and required to seize any and all vessels or boats built, purchased, fitted out, or held as aforesaid, which may be found within their respective ports or districts, and to cause the same to be proceeded against and disposed of as herein-before provided.

(a) By act 3 March 1863 § 4, to include any ship, vessel, or steamer, to or from any port or place south of Mexico, down to and including Aspinwall and Panama. 12 Stat. 742.

(b) See ante 301.

(c) Ante 664, pl. 19.

# Navy.

## I. ORGANIZATION OF THE NAVY.

1. How steamships to be named.
2. Senior flag officer.
3. Additional ships to be constructed.
4. Iron-clad steamers to be constructed.
5. Light side-wheel steamers.
6. Iron-clad steam gunboats.
7. Appointment of chaplains.
8. Grades in the naval service.
9. Number of officers.
10. Commands.
11. Advisory board on promotions.
12. Commissions to issue to officers promoted.
13. Appointment of advisory boards.
14. Appointment of rear admirals.
15. Distinguished officers not to be retired.
16. Promotion for distinguished services.
17. When acting officers to be placed in the line of promotion.
18. Relative rank between the army and navy.

## II. TEMPORARY INCREASE OF THE NAVY.

19. Temporary increase authorized.
20. Temporary appointments of officers.
21. Increase of number of seamen, &c.
22. Names of purchased vessels may be changed.
23. Temporary acting assistant paymasters and ensigns.

## III. LETTERS OF MARQUE.

24. President may issue letters of marque and reprisal.

## IV. RULES FOR THE GOVERNMENT OF THE NAVY.

25. Conduct of commanders.
26. Divine service.
27. Capital offences. Mutiny. Disobedience. Intercourse with the enemy. Desertion. Receiving messages from the enemy. Sleeping upon watch, &c. Stranding vessel, &c. Striking the flag. Cowardice. Neglecting to prepare for action.
28. Punishment of spies. Murder.
29. Imprisonment for life.
30. Punishment of cruelty. Scandalous conduct. Quarrelling, &c. Disrespect. Negligence. Making false muster. Embarrassment. Negligent loss of vessel. Plundering, &c. Refusing to arrest offenders. Desertion in time of peace. Escapes. Extortion. Receiving freight. Disobedience. And other offences.
31. Flogging abolished.
32. Offences on shore.
33. Power of commanding officers to inflict punishment.
34. General courts martial.
35. Oath of judge advocate. Oath of members.
36. How testimony to be taken. Punishment of perjury. Form of indictment.
37. Oath of witnesses.
38. Copy of charges to be delivered to the accused. Officers under arrest.
39. Sittings of courts martial.
40. Proceedings in case of the absence of a member.
41. Suspension of pay.
42. Confirmation of sentence.
43. Power to mitigate sentence.
44. Adequate punishments to be inflicted.
45. Authentication of judgment.
46. Courts of inquiry.
47. Authentication of proceedings.
48. Oath of members. Oath of judge advocate.
49. Prizes to belong to captors.
50. Distribution of prize-money. When other vessels to share.
51. Bounty for vessels destroyed in action.
52. Proceedings on capture of a prize.
53. Armed vessels to receive prize-money.
54. Nothing to be taken from prizes before condemnation.
55. Punishment for pillaging.
56. Distribution of ransom-money, &c.
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94. Clerks of yards and commanders' clerks.
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96. Chiefs of bureaus.
97. Secretary of commander of a squadron.
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100. Captains.
101. Commanders.
102. Lieutenant-commanders.
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105. Ensigns.
106. Midshipmen.
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## I. ORGANIZATION OF THE NAVY.

12 June 1858 § 5.  
11 Stat. 319.

How steamships  
to be named.

1. All the steamships of the navy of the United States now building or hereafter to be built, shall be named by the secretary of the navy, under the direction of the president of the United States, according to the following rule, namely: All those of forty guns or more shall be considered of the first class, and shall be called after the states of the Union; those of twenty guns and under forty shall be considered as of the second class, and be called after the rivers and principal towns or cities; and all those of less than twenty guns shall be the third class, and named by the secretary of the navy as the president may direct, care being taken that no two vessels in the navy shall bear the same name.

2 March 1859 § 1.  
11 Stat. 442.

Senior flag officer

2. That the president of the United States, by and with the advice and consent of the senate, be and he is hereby authorized and empowered to confer on Captain Charles Stewart, of the United States navy, in recognition of his distinguished and meritorious service, the commission of senior flag officer of the United States navy on the active service list.

21 Feb. 1861 § 9.  
12 Stat. 151.

Additional ships  
to be constructed

3. That the secretary of the navy be and he is hereby authorized to cause to be constructed for the United States navy, at as early a day as practicable, having due regard to efficiency and economy, seven steam screw sloops-of-war, of the second class, as vessels are rated in the navy, with full steam power, whose greatest draft of water shall not exceed fourteen feet, which sloops shall combine the heaviest armament and greatest speed compatible with their character and tonnage; and for the purpose above specified the sum of twelve hundred thousand dollars be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to be expended under the direction of the secretary of the navy.

3 August 1861 § 1.  
12 Stat. 286.

Iron-clad steam-  
ers to be con-  
structed.

4. That the secretary of the navy be and he is hereby authorized and directed to appoint a board of three skilful naval officers to investigate the plans and specifications that may be submitted for the construction or completing of iron or steel-clad steamships or steam-batteries, and on their report, should it be favorable, the secretary of the navy will cause one or more armored or iron or steel-clad steamships or floating steam-batteries to be built; and there is hereby appropriated, out of any money in the treasury not otherwise appropriated, the sum of one million five hundred thousand dollars.

5 August 1861 § 1.  
12 Stat. 316.

Light side-wheel  
steamers.

5. The secretary of the navy shall cause to be constructed, with the least possible delay, twelve small side-wheel steamers, for the use of the navy of the United States, of light draught and great speed; and that for the purpose aforesaid twelve hundred thousand dollars be and the same hereby is appropriated.

13 Feb. 1862 § 1.  
12 Stat. 338.

Iron-clad steam  
gunboats.

6. The secretary of the navy is hereby authorized and empowered to cause to be constructed, by contract or otherwise, as he shall deem best for the public interest, not exceeding twenty iron-clad steam gunboats for the use of the navy of the United States.

14 July 1862 § 7.  
12 Stat. 565.

7. Chaplains in the navy shall be no less than twenty-one nor more than thirty-five years of age at the time of their appointment as such.

16 July 1862 § 1.  
12 Stat. 583.

Grades in the  
naval service.

8. The active list of line officers of the United States navy shall be divided into nine grades, taking rank according to the date of their commissions in each grade, as follows, viz.:

- First. Rear admirals.
- Second. Commodores.
- Third. Captains.
- Fourth. Commanders.
- Fifth. Lieutenant-commanders.
- Sixth. Lieutenants.
- Seventh. Masters.
- Eighth. Ensigns.
- Ninth. Midshipmen.

Ibid. § 2.

Number of off-  
cers.

9. The number of officers allowed to each grade shall not exceed nine rear admirals, eighteen commodores, thirty-six captains, seventy-two commanders, one hundred and forty-four lieutenant-commanders, one hundred and forty-four lieutenants, one hundred and forty-four masters and one hundred and forty-four ensigns.

Ibid. § 3.

Commands.

10. The vessels of the United States navy shall be divided into four classes, to be commanded, as near as may be, as follows:

- First rates, by commodores.
- Second rates, by captains.
- Third rates, by commanders.
- Fourth rates, by lieutenant-commanders.

Lieutenant-commanders may be assigned as first lieutenants of naval stations and of vessels not commanded by lieutenant-commanders.

16 July 1862.

11. The secretary of the navy shall appoint an advisory board of not less than three officers, senior to those to be reported upon, who shall carefully scrutinize the active list of line officers above, and including the grade of masters in the line of promotion, and report to him in writing those who, in the opinion of the board, are worthy of further promotion, in the following words: *We hereby certify that ——— has the moral, mental, physical and professional qualifications to perform efficiently all his duties, both at sea and on shore, of the grade to which he is to be promoted, and recommend him for promotion.*

Ibid. § 4.

Advisory board on promotions.

12. The officers recommended shall be immediately commissioned, according to their present seniority, in the following grades and numbers, viz.: eighteen commodores, thirty-six captains, seventy-two commanders, one hundred and forty-four lieutenant-commanders, one hundred and forty-four lieutenants, one hundred and forty-four masters and one hundred and forty-four ensigns: *Provided*, That this number of officers remain upon the active list after the action of the board, otherwise so soon as the graduates from the naval academy are available for promotion.

Ibid. § 5.

Commissions to issue to officers promoted.

13. A similar advisory board shall be appointed at least once in every four years: *Provided*, That the same officers shall not be eligible for two successive terms.

Ibid. § 6.

14. Nine rear admirals may be appointed by the president, by and with the advice and consent of the senate, who shall be selected, during war, from those officers upon the active list not below the grade of commanders, who have distinguished themselves, or shall hereafter most eminently distinguish themselves by courage, skill and genius in their profession: *Provided*, That no officer shall be promoted to this grade unless, upon recommendation of the president, by name, he has received the thanks of congress for distinguished service. During times of peace, vacancies to this grade shall be filled by regular promotion from the list of commodores, subject to examination as aforesaid.

Ibid. § 7.

Appointment of rear admirals.

15. Whenever, upon the recommendation of the president of the United States, any officer of the navy now upon the active list, not below the grade of commander, has received, or shall receive, by name, during the present war, a vote of thanks of congress for distinguished service, such officer shall not be retired, except for cause, until he has been fifty-five years in the naval service of the United States.

Ibid. § 8.

Distinguished officers not to be retired.

16. Any line officer of the navy or marine corps may be advanced one grade, if, upon recommendation of the president, by name, he receives the thanks of congress for highly distinguished conduct in conflict with the enemy, or for extraordinary heroism in the line of his profession.

Ibid. § 9.

Promotion for distinguished services.

17. Any person who shall have received or shall hereafter receive a temporary appointment as acting volunteer lieutenant or acting master in the navy from civil life, authorized by the act of congress of July 24th 1861, may be confirmed in said appointment in the navy, and placed in the line of promotion from the date of said confirmation, if, upon the recommendation of the president, he receives the thanks of congress for highly meritorious conduct in conflict with the enemy: *Provided*, The number of officers allowed in each grade by this act shall not be increased thereby. Seamen distinguishing themselves in battle, or by extraordinary heroism in the line of their profession, may be promoted to forward warrant officers, or acting masters' mates, as they may be best qualified, upon the recommendation of their commanding officer, approved by the flag officer and the department. Upon such promotion they shall receive a gratuity of one hundred dollars, and a medal of honor to be prepared by the navy department.

Ibid. § 10.

When acting officers to be placed in the line of promotion.

Seamen to be promoted for distinguished services.

18. The relative rank between officers of the navy and the army shall be as follows, lineal rank only to be considered:

Ibid. § 13.

Relative rank.

- Rear admirals with major-generals.
- Commodores with brigadier-generals,
- Captains with colonels.
- Commanders with lieutenant-colonels.
- Lieutenant commanders with majors.
- Lieutenants with captains.
- Masters with first lieutenants.
- Ensigns with second lieutenants.

## II. TEMPORARY INCREASE OF THE NAVY.

19. That for and during the present insurrection, the secretary of the navy shall be, and he is hereby, authorized to hire, purchase or contract for such vessels as may be necessary for the temporary increase of the navy of the United States, and he is also hereby authorized to furnish any vessel or vessels which may be purchased or contracted for, with such ordnance, ordnance stores and munitions of war as may be necessary to

24 July 1861 § 1.  
12 Stat. 272.

Temporary increase authorized.

- 24 July 1861. enable such vessel or vessels to render the most efficient service, pursuant to the orders which may be given to their respective commanders.
- Ibid.* § 2. 20. The temporary appointments made, or which may be made, by the secretary of the navy, of acting lieutenants, acting paymasters, acting assistant surgeons, acting masters and masters' mates, are hereby ratified and confirmed as temporary acting appointments, until the return of the vessels in which they are respectively employed, or until the suppression of the present insurrection, as may be deemed necessary; and the rate of compensation allowed for the several grades specified is hereby legalized and approved.
- 5 Aug. 1861 § 1. 21. That the secretary of the navy be, and he hereby is, authorized to cause to be enlisted in the navy of the United States, for the term of three years, or during the war, such number of able seamen, ordinary seamen and boys as he may judge necessary and proper, to place the entire navy of the United States, and all vessels that may be added to it, in a state of the utmost efficiency for active service.
- 12 Stat. 312. Increase of number of seamen, &c.
- 5 Aug. 1861 § 2. 22. That the secretary of the navy be, and he is hereby, authorized to change the names of any vessels purchased for the use of the navy department by authority of law, and they shall be thereafter known by the names so given them by virtue of this act.
- 12 Stat. 312. Names of purchased vessels may be changed.
- 8 March 1863 § 3. 23. That the second section of the act entitled "An act for the temporary increase of the navy," approved July 24th 1861, shall be so construed that the temporary appointments made, or which may be made, of acting assistant paymasters and acting ensigns, are hereby ratified and confirmed as temporary acting appointments, until the return of the vessels in which they are respectively employed, or until the suppression of the present insurrection, as may be deemed necessary; and the rate of compensation allowed for the several grades specified, is hereby legalized and approved.
- 12 Stat. 312. Temporary acting assistant paymasters and ensigns.

### III. LETTERS OF MARQUE.

- 8 March 1863 § 1. 24. In all domestic and foreign wars the president of the United States is authorized to issue to private armed vessels of the United States, commissions or letters of marque and general reprisal, in such form as he shall think proper, and under the seal of the United States, and make all needful rules and regulations for the government and conduct thereof, and for the adjudication and disposal of the prizes and salvages made by such vessels: *Provided*, That the authority conferred by this act shall cease and terminate at the end of three years from the passage of this act.
- 12 Stat. 752. President may issue letters of marque.

### IV. RULES FOR THE GOVERNMENT OF THE NAVY.

- 17 July 1862 § 1. 25. That from and after the first day of September next, the following articles be adopted, and put in force for the government of the navy of the United States:
- 12 Stat. 600. Conduct of commanders.
- ART. I.** The commanders of all fleets, squadrons, naval stations and vessels belonging to the navy, are strictly enjoined and required to show in themselves a good example of virtue, honor, patriotism and subordination; to be vigilant in inspecting the conduct of all who may be placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct all who may be guilty of them, according to the laws and regulations of the navy, upon pain of such punishment as a general court martial may think proper to inflict.
- Divine service. 26. **ART. II.** The commanders of vessels and naval stations, to which chaplains are attached, shall cause divine service to be performed on Sunday, whenever the weather and other circumstances will allow it to be done; and it is earnestly recommended to all officers, seamen and others in the naval service, diligently to attend at every performance of the worship of Almighty God. Any irreverent or unbecoming behavior during divine service shall be punished as a general or summary court martial shall direct.
- Capital offences. 27. **ART. III.** The punishment of death, or such other punishment as a court martial shall adjudge, may be inflicted on any person in the naval service—
- Mutiny. I. Who shall make or attempt to make or unite with any mutinous assembly, or, knowing of the same, or of any intended mutiny, shall not forthwith communicate it to his superior or commanding officer, or, being witness to or present at any mutiny, shall not do his utmost to suppress it;
- Disobedience. II. Or shall disobey the lawful orders of his superior officer, or strike or assault, or attempt or threaten to strike or assault him, while in the execution of the duties of his office;
- Intercourse with the enemy. III. Or shall give, hold or entertain any intercourse or intelligence to or with any enemy or rebel, without leave from the president of the United States, the secretary of the navy, the commander-in-chief of the fleet, or the commander of a squadron; or, in case of a vessel acting singly, from his commanding officer;
- Desertion. IV. Or shall desert, or entice others to desert, to an enemy or rebel;

V. Or shall receive any message or letter from an enemy or rebel, or be aware of the unlawful reception of such letter or message, and fail to take the earliest opportunity to inform his superior or commanding officer thereof; 17 July 1862.  
Receiving messages from the enemy.

VI. Or shall, in time of war, desert or betray his trust, or entice or aid others to desert or betray their trust, or shall sleep upon his watch, or leave his station before regularly relieved; Sleeping upon watch, &c.

VII. Or shall intentionally or wilfully suffer any vessel of the navy to be stranded or run upon rocks or shoals, or improperly hazarded, or shall wilfully or maliciously injure any vessel of the navy, or any part of her tackle, armament or equipment, whereby the safety of the vessel shall be hazarded, or the lives of the crew exposed to danger; or shall set on fire, or otherwise unlawfully destroy, any public property not then in the possession of an enemy, pirate or rebel; Stranding vessel, &c.

VIII. Or shall strike or attempt to strike the flag to an enemy or rebel without proper authority, or when engaged in battle, shall treacherously yield, or pusillanimously cry for quarter; Striking the flag.

IX. Or shall, in time of battle, display cowardice, negligence or disaffection, or withdraw from or keep out of danger to which he should expose himself; or shall desert his duty or station, or entice others to do so; or shall not properly observe the orders of his commanding officer, and use his utmost exertions to carry them into execution, when ordered to prepare for, join in or when actually engaged in battle, or while in sight of an enemy; Cowardice.

X. Or when commanding a fleet, squadron or vessel acting singly, shall, upon the probability of an engagement, or on sight of any armed vessel of an enemy or rebel, neglect to prepare and clear his ship for action; or shall not, upon signal for battle, use his utmost exertions to join in battle, or shall fail to encourage in his own person his inferior officers and men to fight courageously; or shall not do his utmost to overtake and capture or destroy any vessel which it is his duty to encounter; or shall not afford all practicable relief and assistance to vessels belonging to the United States or their allies when engaged in battle. Neglecting to prepare for action.

28. ART. IV. Spies, and all persons who shall come or be found in the capacity of spies, or who shall bring or deliver any seducing letter or message from an enemy or rebel, or endeavor to corrupt any person in the navy to betray his trust, shall suffer death, or such other punishment as a court martial shall adjudge. Spies.

ART. V. The crime of murder, when committed by an officer, seaman, marine or other person belonging to any public ship or vessel of the United States, without the territorial jurisdiction of the same, may be punished with death by the sentence of a court martial. Murder.

29. ART. VI. In any case where a naval court martial is authorized to adjudge the punishment of death it may sentence the person convicted to imprisonment for life, or for a stated term, at hard labor, and such sentences of imprisonment and hard labor may be carried into execution in any prison or penitentiary under the control of the United States, or the use of which shall be allowed by the legislature of a state; and persons convicted by a court martial and imprisoned in the prison or penitentiary of any state or territory, shall in all respects be subject to the same discipline and treatment, and under the same control, as convicts sentenced by the courts of the state or territory in which such prison or penitentiary is situated. Imprisonment for life.

30. ART. VII. Such punishment as a court martial shall adjudge may be inflicted on any person in the navy;

I. Who shall be guilty of cruelty, oppression or maltreatment of those subject to his orders; Cruelty.

II. Or shall be guilty of profane swearing, falsehood, drunkenness, gambling, fraud, theft, or any other scandalous conduct tending to the destruction of good morals; Scandalous conduct.

III. Or shall quarrel with, strike or assault any other person in the navy, or use provoking or reproachful words, gestures or menaces, or endeavor to foment quarrels between other persons in the navy, or send or accept a challenge to fight a duel, or act as second in a duel; Quarrelling, &c.

IV. Or shall treat with contempt his superior officer, or be disrespectful to him in language or deportment whilst in the execution of his office; or shall join in or abet any combination to weaken the lawful authority of, or lessen the respect due to his commanding officer; Disrespect.

V. Or shall be negligent or careless in obeying orders, or culpably inefficient in the performance of duty; Negligence.

VI. Or shall knowingly make or sign, or shall aid, abet, direct or procure the making or signing of any false muster; or shall execute, or attempt or countenance any fraud against the United States; or shall waste, embezzle or fraudulently buy, sell or receive Making false muster.  
Embezzlement.

17 July 1862.	any ammunition, provisions or other public stores, or, having the power to prevent it, shall knowingly permit such waste, embezzlement, sale or receipt;
Negligent loss of vessel.	VII. Or shall, through inattention or negligence, suffer any vessel of the navy to be stranded, or run upon a rock or shoal, or hazarded;
Plundering, &c.	VIII. Or shall, when on shore, plunder, abuse or maltreat any inhabitant, or injure his property in any way;
Refusing to arrest offenders.	IX. Or shall refuse or fail to use his utmost exertions to detect, apprehend and bring to punishment all offenders, and aid and assist all persons appointed for the purpose;
Deserting in time of peace.	X. Or shall, in time of peace, desert or attempt to desert, or aid or entice others to desert; or shall be absent from his station or duty without leave, or after his leave shall have expired;
Escapes.	XI. Or shall, when rated or acting as master-at-arms, refuse to receive such prisoners as shall be committed to his charge, or having received them shall suffer them to escape, or dismiss them without orders from the proper authority;
Extortion.	XII. Or shall, when attached to any ship or vessel appointed as convoy to merchant or other vessels, fail diligently to perform his duty, or shall demand or exact any compensation for his services, or shall maltreat the officers or crews of such merchant or other vessels;
Receiving freight.	XIII. Or shall take, receive or permit to be received on board the vessel to which he is attached any goods or merchandise for freight, sale or traffic, except gold, silver or jewels, for freight or safe-keeping, or shall demand or receive any compensation for the receipt or transportation of any other article than gold, silver or jewels, without authority from the president of the United States or the secretary of the navy;
Disobedience.	XIV. Or shall violate or refuse obedience to any lawful general order or regulation issued by the secretary of the navy.
Other offences.	31. ART. VIII. All offences committed by persons belonging to the navy, which are not specified in the foregoing articles, shall be punished as a court martial shall direct; but in no case shall punishment by flogging be inflicted, nor shall any court martial adjudge punishment by flogging.
Flogging abolished.	32. ART. IX. All offences committed by persons belonging to the navy, while on shore, shall be punished in the same manner as if they had been committed at sea.
Offences on shore.	33. ART. X. No commander of a vessel of the navy shall inflict any other punishment upon a commissioned or warrant officer than private reprimand, suspension from duty, arrest or confinement, neither of which shall continue longer than ten days, except a further period be necessary to bring the offender to a court martial; nor shall he inflict, or cause or permit to be inflicted upon any petty officer or person of inferior rating, or marine, any punishment for a single offence, or at any one time other than one of the following punishments, viz.:
Power of commanding officers to inflict punishment.	I. Reduction of any rating established by himself.
	II. Confinement with or without irons, single or double, such confinement not to exceed ten days, unless necessary in the case of a prisoner to be tried by court martial.
	III. Solitary confinement on bread and water not exceeding five days.
	IV. Solitary confinement not exceeding seven days.
	V. Deprivation of liberty on shore.
	VI. Extra duties.
	No other punishment shall be permitted on board of vessels belonging to the navy, except by sentence of a general or summary court martial. Summary court martials may disrate any rated person for incompetency. All punishments inflicted by the commander, or by his order, except reprimands, shall be fully entered upon the ships' log.
Punishments.	34. ART. XI. General courts martial may be convened as often as the president of the United States, the secretary of the navy, or commander-in-chief of a fleet or a squadron, shall deem it necessary: <i>Provided</i> , That in the waters of the United States no commander-in-chief of a fleet or squadron shall convene a general court martial, unless by express authority from the president of the United States: <i>Provided also</i> , That no general court martial shall consist of more than thirteen nor less than five commissioned officers as members; and as many officers shall be summoned on every such court as can be convened without injury to the service, so as not to exceed thirteen; and the senior officer shall always preside, the others taking place according to their rank; and in no case, where it can be avoided without injury to the service, shall more than one-half the members, exclusive of the president, be junior to the officer to be tried.
General courts martial.	35. ART. XII. The president of the court is authorized and required to administer the following oath or affirmation to the judge advocate or person officiating as such:— “I, A. B., do swear (or affirm) that I will keep a true record of the evidence given to and the proceedings of this court; nor will I divulge or by any means disclose the sentence of the court, until it shall have been approved by the proper authority; nor will I, at any
Oath of judge advocate.	

*time, divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice, in due course of law."* 17 July 1862.

This oath or affirmation being duly administered, each member of the court, before proceeding to trial, shall take the following oath or affirmation, which the judge advocate, or person officiating as such, is hereby authorized to administer:—

*"I, A. B., do swear (or affirm) that I will truly try, without prejudice or partiality, the case now depending, according to the evidence which shall come before the court, the rules for the government of the navy, and my own conscience; and that I will not by any means divulge or disclose the sentence of the court, until it shall have been approved by the proper authority, nor will I, at any time, divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice, in due course of law."*

36. ART. XIII. All testimony given to a general court martial shall be on oath or affirmation, which the president of the court is hereby authorized to administer; and if any person shall refuse to give his evidence as aforesaid, or shall prevaricate, or shall behave with contempt to the court, it shall and may be lawful for the court to imprison such offender at their discretion: *Provided*, That the imprisonment in no case shall exceed two months. And every person who shall commit wilful perjury on examination on oath or affirmation before such court, or who shall corruptly procure or suborn any person to commit such wilful perjury, shall and may be prosecuted by indictment or information in any court of justice of the United States, and shall suffer such penalties as are authorized by the laws of the United States in cases of perjury, or the subornation thereof. And in every prosecution for perjury, or the subornation thereof, under this act, it shall be sufficient to set forth the offence charged on the defendant, without setting forth the authority by which the court was held, or the particular matters brought or intended to be brought before said court.

37. ART. XIV. The following oath shall be administered to witnesses before courts martial and courts of inquiry:

*"You do solemnly swear (or affirm, as the case may be) that the evidence you shall give in the case now before this court, shall be the truth, the whole truth, and nothing but the truth, and that you will state everything within your knowledge and recollection in relation to the charges. So help you God"* (or this you do under the pains and penalties of perjury.)

38. ART. XV. The person accused shall be furnished with a true copy of the charges, with the specifications, at the time he is put under arrest; nor shall any other charges than those so exhibited be urged against the person to be tried before the court, unless it appear to the court that intelligence of such charge had not reached the officer ordering the court when the person so tried was put under arrest, or that some witness material to the support of such charge, who was at that time absent, can be produced, in which case reasonable time shall be given to the person to be tried, to make his defence against such new charge. Every officer so arrested is to deliver up his sword to his commanding officer, and to confine himself to the limits assigned him, under the pain of dismissal from the service.

39. ART. XVI. When the proceedings of any general court martial shall have commenced, they shall not be suspended or delayed on account of the absence of any of the members, provided five or more be assembled; but the court is enjoined to sit from day to day, Sundays excepted, until sentence be given, unless temporarily adjourned by the authority which convened the court. And no member of said court shall, after the proceedings are begun, absent himself therefrom, unless in case of sickness or orders to go on duty from a superior officer, on pain of being cashiered.

40. ART. XVII. If a member of a court martial shall, from any legal cause, fail to attend after the commencement of a case, and witnesses shall be examined during his absence, the court must, when he is ready to resume his seat, cause every person who may have been examined in his absence to be called into court, and the recorded testimony of each witness must be read over to him, and such witness must acknowledge the same to be correct, and be subject to such further examination as the said member may require; and without a compliance with this rule, and an entry of it upon the record, a member who shall have been absent during the examination of a witness shall not be allowed to sit again in that particular case.

41. ART. XVIII. Whenever a court martial shall sentence an officer to be suspended, the court shall have the power to suspend his pay and emoluments for the whole or any part of the time of his suspension.

42. ART. XIX. All sentences of courts martial which shall extend to the loss of life, shall require the concurrence of two-thirds of the members present; and no such sentence shall be carried into execution until confirmed by the president of the United States.

Oath of members.

How testimony to be taken.

Punishment of perjury.

Form of indictment.

Oath of witnesses

Copy of charges to be delivered to the accused.

Officers under arrest.

Sittings of courts martial.

Proceedings in case of the absence of a member.

Suspension of pay.

Confirmation of sentence.

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All other sentences may be determined by a majority of votes, and carried into execution on confirmation of the commander of the fleet, or officer ordering the court, except such as go to the dismissal of a commissioned or warrant officer, which are first to be approved by the president of the United States.

Power to mitigate sentence.

43. ART. XX. Every officer who is by this act authorized to convene courts martial shall have power, on revival of its proceedings, to remit or mitigate, but not to commute the sentence of any such court, which by this act he is authorized to approve and confirm.

Adequate punishments to be inflicted.

44. ART. XXI. It shall be the duty of a court martial, in all cases of conviction, to adjudge a punishment adequate to the character and nature of the offence committed; but the members of a court may recommend the person convicted as deserving of clemency, and state on the record their reasons for so doing.

Authentication of judgment.

45. ART. XXII. The judgment of every court martial shall be authenticated by the signature of the president, and all the members of the same who may be present when the said judgment shall be pronounced, and also of the judge advocate.

Courts of inquiry

46. ART. XXIII. Courts of inquiry may be ordered by the president of the United States, the secretary of the navy, or the commander of a fleet or squadron, provided such court shall not consist of more than three members, who shall be commissioned officers, and a judge advocate, or person to do duty as such; and such courts shall have power to summon witnesses, administer oaths, and punish contempt, in the same manner as courts martial. But such court shall merely state facts, and not give their opinion unless expressly required so to do in the order for convening; and the party whose conduct shall be the subject of inquiry, or his attorney, shall have permission to cross-examine all the witnesses.

Authentication of proceedings.

47. ART. XXIV. The proceedings of the courts of inquiry shall be authenticated by the signature of the president of the court and judge advocate, and shall, in all cases not capital, or extending to the dismissal of a commissioned or warrant officer, be evidence before a court martial, provided oral testimony cannot be obtained.

Oath of members.

48. ART. XXV. The judge advocate, or person officiating as such, shall administer to the members the following oath or affirmation:

*"You do swear (or affirm) well and truly to examine and inquire, according to the evidence, into the matter now before you, without partiality or prejudice."*

Oath of judge advocate.

After which the president shall administer to the judge advocate, or person officiating as such, the following oath or affirmation:

*"You do swear (or affirm) truly to record the proceedings of this court, and the evidence to be given, in the case in hearing."*

*Rev. Stat.*  
*Jit. 54*  
*30 June 1864*  
Ibid. § 2.

Prizes to belong to captors.

49. The proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, shall, when of equal or superior force to the vessel or vessels making the capture, be the sole property of the captors; and when of inferior force, shall be divided equally between the United States and the officers and men making the capture.

Ibid. § 3.

Distribution of prize money.

50. The prize-money belonging to the officers and men shall be distributed in the following manner:

I. To the commanding officer of a fleet or squadron, one-twentieth part of all prize-money awarded to a vessel or vessels under his immediate command.

II. To the commander of a single ship, one-tenth part of all prize-money awarded to the ship under his command, if such ship, at the time of making the capture, was under the immediate command of the commanding officer of a fleet or squadron, and three-twentieths if his ship was acting independently of such superior officer.

III. The share of the commanding officer of the fleet or squadron, if any, and the share of the commander of the ship being deducted, the residue shall be distributed and apportioned among all others doing duty on board, and borne upon the books, according to their respective rates of pay in the service.

When other vessels to share.

IV. When one or more vessels of the navy shall be within signal distance of another making a prize, all shall share in the prize, and money awarded shall be apportioned among the officers and men of the several vessels according to the rates of pay of all on board who are borne upon the books, after deducting one-twentieth to the flag officer, if there be any such entitled to share.

When flag officers to be entitled

V. No commander of a fleet or squadron shall be entitled to receive any share of prizes taken by vessels not under his immediate command; nor of such prizes as may have been taken by ships or vessels intended to be placed under his command before they have acted under his immediate orders; nor shall a commander of a fleet or squadron, leaving the station where he had the command, have any share in the prizes taken by ships left on such station, after he has gone out of the limits of his said command, nor after he has transferred his command to a successor.

VI. No officer or other person who shall have been temporarily absent on duty from the vessel, on the books of which he continued to be borne while so absent, shall be deprived, in consequence of such absence, of any prize-money to which he would otherwise be entitled.

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Absent officers,  
&c.

51. A bounty shall be paid by the United States for each person on board any ship or vessel of war belonging to an enemy at the commencement of an engagement which shall be sunk or otherwise destroyed in such engagement, by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequence of injuries sustained in action, of one hundred dollars, if the enemy's vessel was of inferior force; and of two hundred dollars if of equal or superior force; to be divided among the officers and crew in the same manner as prize-money; and when the actual number of men on board any such vessel cannot be satisfactorily ascertained, it shall be estimated according to the complement allowed to vessels of their class in the navy of the United States; and there shall be paid as bounty to the captors of any vessel of war captured from an enemy, which they may be instructed to destroy, or which shall be immediately destroyed for the public interest, but not in consequence of injuries received in action, fifty dollars for every person who shall be on board at the time of such capture.

Ibid. § 4.

Bounty for ves-  
sels destroyed in  
action.

4635 =

52. The commanding officer of every vessel, or the senior officers of all vessels of the navy, which shall capture or seize upon any vessel or vessels as a prize, shall carefully preserve all the papers and writings found on board, and transmit the whole of the originals, unutilized, to the judge of the district to which such prize is ordered to proceed, with the necessary witnesses, and a report of the circumstances attending the capture, stating the names of vessels claiming a share thereof; and the commanding officer of every vessel in the navy entitled to or claiming an award of prize-money, shall, as early as practicable after the capture, transmit to the navy department a complete list of the officers and men of his vessel entitled to share, inserting thereon the quality of every person rating, on pain of forfeiting his whole share of the prize-money resulting from such capture, and suffering such further punishment as a court martial shall adjudge.

Ibid. § 5.

Proceedings on  
capture of a prize

53. Any armed vessel in the service of the United States which shall make a capture or assist in a capture, under circumstances which would entitle a vessel of the navy to prize-money, shall be entitled to an award of prize-money in the same manner as if such vessel belonged to the navy; and such prize-money shall be distributed and apportioned in the same manner, and under the same rules and regulations, as provided for persons in the naval service, and paid under the direction of the secretary of the navy.

Ibid. § 6.

Armed vessels to  
receive prize-  
money.

54. No person in the navy shall take out of a prize or vessel seized as a prize, any money, plate, goods or any part of her equipment, unless it be for the better preservation thereof, or absolutely necessary for the use of any of the vessels or armed forces of the United States, before the same shall be adjudged lawful prize by a competent court; but the whole, without fraud, concealment or embezzlement, shall be brought in and judgment passed thereon, upon pain that every person offending herein shall forfeit his share of the capture, and suffer such further punishment as a court martial shall adjudge.

Ibid. § 7.

Nothing to be  
taken from prizes  
before condemna-  
tion.

55. No person in the navy shall strip off the clothes, or pillage or in any manner maltreat persons taken on board a prize, on pain of such punishment as a court martial shall adjudge.

Ibid. § 8.

Punishment for  
pillaging.

56. All ransom-money, salvage, bounty, or proceeds of forfeiture or confiscation, accruing or awarded to any vessel of the navy, shall be distributed and paid to the officers and men entitled thereto, in the same manner as prize money, under the direction of the secretary of the navy.

Ibid. § 9.

Distribution of  
ransom-money,  
&c.

57. Any person entitled to wages or prize-money may have the same paid to his assignee, provided the assignment be attested by the captain and paymaster; and in case of the assignment of wages, the power shall specify the precise time they commence. But the commander of every vessel is required to discourage his crews from selling any part of their wages or prize-money, and never to attest any power of attorney until he is satisfied that the same is not granted in consideration of money given for the purchase of wages or prize-money.

Ibid. § 10.

Assignments of  
wages and prize-  
money.

58. All money accruing or which has already accrued to the United States from sale of prizes, shall be and remain for ever a fund for the payment of pensions to the officers, seamen and marines who may be entitled to receive the same; and if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen and marines.

Ibid. § 11.

Naval pension  
fund.

59. The district attorneys of the several districts of the courts of the United States, in which any cases of prize are or may be depending, shall, as soon as may be after the passage of this act, furnish to the navy department a complete list of all the prize cases

Ibid. § 12.

Duties of district  
attorneys.

*As to Salvage or Recapture, See § 4652. Recaptured by Google.*  
*Followed when the property belongs to a foreigner*



<p>17 July 1862.</p> <p>Duties of marshals.</p>	<p>which have been determined, or may still be pending within their respective districts, with a statement of the condition of each, in such form and embracing such particulars as the secretary of the navy may require, and shall, as often as once in each month thereafter, furnish a further statement of the condition of every case in their respective districts, and of any further proceedings had therein since their last returns. * * And it shall be the duty of the several marshals of the United States to furnish to the navy department on request, or to its agent, a full and particular statement of the disposition of every prize vessel and cargo, in such form and with such details as the secretary of the navy may require, and as often as he may require the same; and said marshals shall also furnish to the navy department, or their aforesaid agent, a full and particular statement of all fees, charges and allowances of every description claimed by them in each case of prize, before the same are allowed by the court, and no such charges for disbursements of any kind shall be allowed, unless accompanied by the affidavit of the marshal that the same have been actually and necessarily incurred in the case; and it shall be the duty of the district attorney to attend on the settlement and allowance of all such bills, and protect the interests of the United States and of the captors against any improper and unlawful claims. And whenever a final decree of condemnation shall have been made, or any interlocutory sale has been ordered, the property shall be sold by the marshal pursuant to the practice and proceedings in admiralty, and the gross proceeds of such sale shall be forthwith deposited with the assistant treasurer of the United States, at or nearest to the place where such sale is made, and the money so deposited shall remain in the treasury of the United States until a final decree of distribution or until a decree of restitution shall be made, and a certified copy thereof furnished, upon which the costs of court, and the lawful charges and expenses shall be paid, and the balance distributed according to said decree: <i>Provided</i>, That the annual salaries of district attorneys, prize commissioners and marshals shall in no case be so increased, under the several acts for compensation in prize, so as to exceed, in the aggregate, the following sums, and any balance beyond the several sums shall be paid into the treasury, viz.: district attorneys, six thousand dollars; prize commissioners, three thousand dollars; marshals, six thousand dollars.</p>
<p>Sale of prizes.</p> <p>Compensation of officers.</p>	<p>60. Every officer, seaman or marine, disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding in any case his monthly pay.</p> <p>61. In all cases where the crews of the ships or vessels of the United States shall be separated from their vessels by the latter being wrecked, lost or destroyed, all the command, power and authority given to the officers of such ships or vessels shall remain and be in full force as effectually as if such ship or vessel were not so wrecked, lost or destroyed, until such ship's company be regularly discharged from, or ordered again into, the service, or until a court martial or court of inquiry shall be held to inquire into the loss of such ship or vessel; and if, by the sentence of such court or other satisfactory evidence, it shall appear to the secretary of the navy that all or any of the officers and men of such ship's company did their utmost to preserve her, and after the loss thereof behaved themselves agreeably to the discipline of the navy, then the pay and emoluments of such officers and men, or such of them as shall have done their duty as aforesaid, shall go on until their discharge or death; and every officer or man who shall, after the loss of such vessel, act contrary to the discipline of the navy, shall be punished at the discretion of a court martial in the same manner as if such vessel had not been so lost.</p>
<p><i>Ibid.</i> § 13.</p> <p>Pensions for disability.</p> <p><i>Ibid.</i> § 14.</p> <p>Authority of officers to continue on loss of or separation from vessel.</p>	<p>62. All the pay and emoluments of the officers and men of any of the ships or vessels of the United States taken by the enemy, who shall appear by the sentence of a court martial or otherwise to have done their utmost to preserve and defend their ship or vessel, and after the taking thereof have behaved themselves obediently to their superiors, agreeably to the discipline of the navy, shall go on, and be paid them until their death, exchange or discharge.</p>
<p><i>Ibid.</i> § 15.</p> <p>Pay of prisoners of war.</p>	<p>63. Each commanding officer shall, whenever a man enters on board, cause an accurate entry to be made in the ship's books of his name, the date, place and term of his enlistment, the place or vessel from which he was received on board, his rating, and his descriptive list to include his age, place of birth and citizenship, with such remarks as may be necessary; and shall, before sailing, transmit to the secretary of the navy a complete list or muster-roll of the rated men under his command, showing the particulars above set forth, and also a list of officers and passengers with the date of their entering; and he shall cause similar lists to be made out on the first day of every third month, to be transmitted to the secretary of the navy, as opportunities shall occur; accounting in such lists or muster-rolls for any casualties which may have taken place since the last list or muster-roll. He shall not receive on board any man transferred from any other</p>
<p><i>Ibid.</i> § 16.</p> <p>Record of enlistments.</p> <p>Muster-roll.</p> <p>Transfers.</p>	

vessel or station to him, unless such man be furnished with an account, signed by the captain and paymaster of the vessel or station from which he came, specifying the date of his entry, the period and term of service, the sums paid, the balance due him, the quality in which he was rated and his descriptive list. He shall cause to be accurately minuted on the ship's books the names of and times at which any death or desertion may occur; and in case of death, shall take care that the paymaster secure all the property of the deceased for the benefit of his legal representative or representatives. He shall cause frequent inspections to be made into the condition of the provisions, and use every precaution for their preservation. He shall, whenever he orders officers and men to take charge of a prize and proceed to the United States, and whenever officers or men are sent from his ship, for whatever cause, take care that each man be furnished with a complete statement of his account, specifying the date of his enlistment, the periods and terms of his service and his descriptive list; which account shall be signed by the commanding officer and paymaster. He shall cause the articles for the government of the navy to be hung up in some public part of the ship, and read once a month to his ship's company. He shall cause a convenient place to be set apart for sick or disabled men, to which he shall have them removed, with their hammocks and bedding, when the surgeon shall so advise, and shall direct that some of the crew attend them and keep the place clean. He shall frequently consult with the surgeon in regard to the sanitary condition of his crew, and shall use all proper means to preserve their health, and when his crew is finally paid off he shall attend in person, or appoint a proper officer, to see that justice be done to the men and to the United States in the settlement of the accounts. Any commanding officer offending herein shall be punished at the discretion of a court martial.

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Death and desertion.

Inspections.

Prize crews.

Articles of war.

Hospital

Ibid. § 17.

Expiration of term of service.

Temporary desertion.

Ibid. § 18.

Petty officers.

Ibid. § 19.

Regulations to be furnished.

21 Feb. 1861 § 3.  
12 Stat. 150.

Retired list.

Pay.

Ibid. § 4.

Vacancies to be filled.

31 July 1861 § 1.  
12 Stat. 284.

64. It shall be the duty of the commanding officer of any fleet, squadron or vessel acting singly, when on service, to send to an Atlantic port of the United States in some public or other vessel, all petty officers and persons of inferior ratings desiring to go there at the expiration of their terms of service, or as soon thereafter as may be, unless in his opinion the detention of such persons for a longer period should be very essential to the public interests; in which case he may detain them or any of them until the vessel to which they belong shall return to such Atlantic port; and in case of such detention, the person so sent home or so detained shall be subject in all respects to the laws and regulations for the government of the navy, until their return to an Atlantic port, and their regular discharge. And all persons who shall be so detained beyond their terms of service, or who shall, after the termination of their service, voluntarily re-enter to serve until the return to an Atlantic port of the vessel to which they belong, and their regular discharge therefrom, shall for the time during which they are so detained, or shall so serve beyond their original terms of service, which shall in no case exceed thirty days after their arrival in an Atlantic port, receive an addition of one-fourth of their former pay: *Provided*, That the shipping articles shall hereafter contain the substance of this section.

65. All officers not holding commissions or warrants, or who are not entitled to them, except such as are temporarily appointed to the duties of a commissioned or warrant officer, or secretaries or clerks, shall be deemed petty officers, and shall be entitled to obedience in the execution of their offices from those of inferior ratings.

66. The secretary of the navy shall cause each commissioned or warranted officer of the navy, on his entry into the service, to be furnished with a copy of the regulations and general orders of the department then in force, and thereafter with a copy of all such as may be issued.

#### V. MEDICAL DEPARTMENT.

67. The president of the United States is hereby authorized to place on a retired list any medical officer of the navy who is now or may hereafter be proved to be permanently incapable, from physical or mental infirmity, of further service at sea; and that the pay of officers so retired shall be the leave of absence pay of their respective grades as it existed prior to the passage of the act of congress to regulate the pay of the navy, approved June 1, 1860.

68. All vacancies in the medical corps of the navy caused by the foregoing section shall be filled in accordance with established usage: *Provided*, The number of medical officers on the active list shall not exceed the number authorized by existing laws.

69. The medical corps of the navy shall consist of eighty surgeons and one hundred and twenty passed and other assistant surgeons.

#### VI. PAYMASTERS.

70. Purser in the navy of the United States shall hereafter be styled paymasters, and all laws and regulations applying to them as pursers, and all responsibilities

22 June 1860 § 3.  
12 Stat. 83.

- 22 June 1866.  
Pursers to be styled paymasters.  
Pay of pursers' clerks.
- 17 July 1861 § 1.  
12 Stat. 258.  
Assistant paymasters to be appointed.
- Ibid. § 2.  
Qualifications.
- Ibid. § 3.  
Pay.
- Ibid. § 4.  
Commanding officers not to act as paymasters.  
Appointment of acting paymasters and assistant paymasters.
- Ibid. § 5.  
Bonds.
- Promotion.
- Ibid. § 6.  
Number.
- 14 July 1862 § 1.  
12 Stat. 576.  
Approval of bonds.
- 3 March 1863 § 5.  
12 Stat. 818.  
Assistant paymasters' clerks.
- and obligations attaching to them as such shall remain in full force and continue to apply to them under the title of paymasters; and the payments heretofore made to the pursers' clerks at the navy yards at Charlestown, New York and Norfolk, under appropriations made by congress, at the rate of seven hundred and fifty dollars per annum, are hereby confirmed; and the pay of the pursers' clerks at those navy yards shall be continued at the rate of seven hundred and fifty dollars per annum.
71. That the grade of assistant paymaster in the navy of the United States be and hereby is established; and that, from and after the passage of this act, the president of the United States, by and with the advice and consent of the senate, may appoint assistant paymasters from time to time, as they shall be needed for active service in the navy, not exceeding thirty-six in number.
72. That every person who shall be appointed assistant paymaster shall at the time of his appointment be not less than twenty-one years of age, nor more than twenty-six years; and that, previous to his appointment, his physical, mental and moral qualifications shall be inquired into and favorably reported upon by a board of paymasters appointed for that purpose by the secretary of the navy, and under such regulations as he may prescribe.
73. The annual pay of assistant paymaster shall be as follows, viz.:  
On duty at sea, for the first five years after date of commission, one thousand three hundred dollars; after five years from date of commission, one thousand five hundred dollars.  
On other duty, for the first five years after date of commission, one thousand dollars; after five years from date of commission, one thousand two hundred dollars.  
On leave of absence or waiting orders, for the first five years after date of commission, eight hundred dollars; after five years from date of commission, one thousand dollars; and when attached to vessels for sea service, each assistant paymaster shall be entitled to one ration per day.
74. No commanding officer of any vessel in the navy shall be required to perform the duties of paymaster or assistant paymaster; and when such office shall become vacant, by death or otherwise, in ships at sea or on foreign stations, or on the Pacific coast of the United States, the senior officer present may make an acting appointment of any fit person to perform the duties until another paymaster or assistant paymaster shall report for duty. Any person performing the duties of paymaster or assistant paymaster in accordance with this section (but not otherwise), shall be entitled to receive the pay of such grade whilst so acting.
75. Each assistant paymaster shall, upon his appointment, enter into bonds in the amount of ten thousand dollars, with at least two good and sufficient securities, for the faithful performance of his duties; and assistant paymasters shall have rank and precedence with assistant surgeons not passed; and all appointments to fill vacancies in the corps of paymasters shall be made by regular promotion from the list of assistant paymasters.
76. Within six months after the expiration of the present insurrection, the corps of paymasters and assistant paymasters shall be reduced to the number of seventy-five in the whole.
77. That the law requiring the official bond of a paymaster or assistant paymaster in the navy to be approved by the judge or attorney of the United States for the district in which such paymaster or assistant paymaster shall reside, be and the same is hereby repealed; and such bond shall be deemed and taken to be satisfactory and sufficient whenever the secretary of the navy shall be satisfied, on such evidence as he shall consider proper, that such bond ought to be approved and accepted.
78. Every assistant paymaster attached to a vessel of war shall be allowed a clerk, with the compensation and privileges which would be given by law to the clerk of a paymaster if attached to the same vessel: *Provided*, That clerks shall not be allowed to paymasters or assistant paymasters in vessels having complements of less than one hundred, excepting in supply steamers or store-ships.

## VII. ENGINEERS.

- 3 March 1859 § 2.  
11 Stat. 407.  
Rank of engineer officers.
79. That the following general order issued by the secretary of the navy, and dated January 13th 1859, be and the same is hereby confirmed.

## "General Order.

Chief engineers of more than twelve years will rank with commanders.  
Chief engineers of less than twelve years, with lieutenants.  
First assistant engineers, next after lieutenants.  
Second assistant engineers, next after masters.  
Third assistant engineers, with midshipmen.

Commanding and executive officers of whatever grade, will take precedence over all engineer officers. 3 March 1859.

This order confers no authority to exercise military command, and no additional right to quarters.

ISAAC TOUCY,

Secretary of the Navy,

Navy Department, January 13th 1859."

80. In case of a vacancy in the office of engineer-in-chief of the navy, the appointment thereto shall be made from the list of chief engineers. 3 August 1861 § 2.  
12 Stat. 256.

#### VIII. PAY AND SUBSISTENCE.

81. The annual pay of the officers of the navy, on the active list, hereinafter named, shall be as follows: 1 June 1860 § 1.  
12 Stat. 23.

*Captains.*—The senior flag officer, created under and by virtue of an act of congress approved March 2d 1857, (u) shall receive four thousand five hundred dollars. Pay of flag officer

82. *Chaplains.*—Chaplains shall be paid as lieutenants.

Chaplains.

Every chaplain shall be permitted to conduct public worship according to the manner and forms of the church of which he may be a member.

Every chaplain retained in the service shall be required to report annually to the secretary of the navy the official services performed by him.

83. *Surgeons.*—Every surgeon on duty at sea, for the first five years after the date of his commission as surgeon, two thousand two hundred dollars. Surgeons.

For the second five years after the date of his commission as surgeon, two thousand four hundred dollars.

For the third five years after the date of his commission as surgeon, two thousand six hundred dollars.

For the fourth five years after the date of his commission as surgeon, two thousand eight hundred dollars.

For twenty years and upwards after the date of his commission as surgeon, three thousand dollars.

Fleet surgeons, three thousand three hundred dollars.

Every surgeon on other duty, for the first five years after the date of his commission as surgeon, two thousand dollars.

For the second five years after the date of his commission as surgeon, two thousand two hundred dollars.

For the third five years after the date of his commission as surgeon, two thousand four hundred dollars.

For the fourth five years after the date of his commission as surgeon, two thousand six hundred dollars.

For twenty years after the date of his commission as surgeon, two thousand eight hundred dollars.

Every surgeon on leave or waiting orders for the first five years after the date of his commission as surgeon, one thousand six hundred dollars.

For the second five years after the date of his commission as surgeon, one thousand eight hundred dollars.

For the third five years after the date of his commission as surgeon, one thousand nine hundred dollars.

For the fourth five years after the date of his commission as surgeon, two thousand one hundred dollars.

For twenty years and upwards after the date of his commission as surgeon, two thousand three hundred dollars.

84. *Passed Assistant Surgeons.*—Every passed assistant surgeon on duty at sea, one thousand five hundred dollars. Passed assistant surgeons.

When on other duty, one thousand four hundred dollars.

When on leave or waiting orders, eleven hundred dollars.

85. *Assistant Surgeons.*—Every assistant surgeon on duty at sea, one thousand two hundred and fifty dollars. Assistant surgeons.

When on other duty, one thousand and fifty dollars.

When on leave or waiting orders, eight hundred dollars.

86. *Purser.*—Every purser on duty at sea, for the first five years after the date of his commission, two thousand dollars. Paymasters.

For the second five years after the date of his commission, two thousand four hundred dollars.

For the third five years after the date of his commission, two thousand six hundred dollars.

1 June 1860.

For the fourth five years after the date of his commission, two thousand nine hundred dollars.

For twenty years and upwards after the date of his commission, three thousand one hundred dollars.

Every purser on other duty, for the first five years after the date of his commission, one thousand eight hundred dollars.

For the second five years after the date of his commission, two thousand one hundred dollars.

For the third five years after the date of his commission, two thousand four hundred dollars.

For the fourth five years after the date of his commission, two thousand six hundred dollars.

For twenty years and upwards after the date of his commission, two thousand eight hundred dollars.

Every purser on leave or waiting orders, for the first five years after the date of his commission, one thousand four hundred dollars.

For the second five years after the date of his commission, one thousand six hundred dollars.

For the third five years after the date of his commission, one thousand eight hundred dollars.

For the fourth five years after the date of his commission, two thousand dollars.

For twenty years and upwards after the date of his commission, two thousand two hundred and fifty dollars.

Professors of mathematics.

87. *Professors of Mathematics.*—Every professor of mathematics on duty, one thousand eight hundred dollars.

When on leave or waiting orders, nine hundred and sixty dollars.

Engineers.

88. *Engineers.*—Every chief engineer on duty, for the first five years after the date of his commission, one thousand eight hundred dollars.

For the second five years after the date of his commission, two thousand two hundred dollars.

For the third five years after the date of his commission, two thousand four hundred and fifty dollars.

After fifteen years after the date of his commission, two thousand six hundred dollars.

Every chief engineer on leave or waiting orders for the first five years after the date of his commission, one thousand two hundred dollars.

For the second five years after the date of his commission, one thousand three hundred dollars.

For the third five years after the date of his commission, one thousand four hundred dollars.

After fifteen years after the date of his commission, one thousand five hundred dollars.

Every first assistant engineer on duty, one thousand two hundred and fifty dollars.

While on leave or waiting orders, nine hundred dollars.

Every second assistant engineer on duty, one thousand dollars.

While on leave or waiting orders, seven hundred and fifty dollars.

Every third assistant engineer on duty, seven hundred and fifty dollars.

While on leave or waiting orders, six hundred dollars.

Warrant officers.

89. *Warranted Officers.*—Every boatswain, gunner, carpenter and sailmaker on duty at sea, for the first three years' sea service after the date of his warrant, one thousand dollars.

For the second three years' sea service after the date of his warrant, one thousand one hundred and fifty dollars.

For the third three years' sea service after the date of his warrant, one thousand two hundred and fifty dollars.

For the fourth three years' sea service after the date of his warrant, one thousand three hundred and fifty dollars.

For twelve years' sea service and upwards, one thousand four hundred and fifty dollars.

When on other duty.—For the first three years of sea service after the date of warrant, eight hundred dollars.

For the second three years' sea service after the date of his warrant, nine hundred dollars.

For the third three years' sea service after the date of his warrant, one thousand dollars.

For the fourth three years' sea service after the date of his warrant, one thousand one hundred dollars.

For twelve years' sea service and upwards, one thousand two hundred dollars.

When on leave or waiting orders.—For the first three years' sea service after the date of his warrant, six hundred dollars.

1 June 1860.

For the second three years' sea service after the date of his warrant, seven hundred dollars.

For the third three years' sea service after the date of his warrant, eight hundred dollars.

For the fourth three years' sea service after the date of his warrant, nine hundred dollars.

For twelve years' sea service and upwards, one thousand dollars.

90. Nothing in this act contained shall be so construed as to increase or modify the present pay of chiefs of bureaus in the navy department, with whom shall be classed the present superintendent of the naval observatory: *Provided*, That the officer now charged with experiments in gunnery at the navy yard, Washington, shall receive the sea service pay of the grade now next above him.

*Ibid.* § 2.

Chiefs of bureaus  
&c.

91. Hereafter no service shall be regarded as sea service but such as shall be performed at sea under the orders of a department, and in vessels employed by authority of law.

*Ibid.* § 3.

Sea service.

92. Nothing in this act contained shall be held to modify or affect the existing power of the secretary of the navy to furlough officers or to affect the furlough pay.

*Ibid.* § 4.

Powers of secretary.

93. The increased pay hereinbefore provided for masters shall attach to masters not in the line of promotion, whether on the active or reserved list; and officers on the reserved list, when called into active service, shall receive the pay of their respective grades as herein provided during the term of such service: *Provided*, That nothing herein contained shall be construed to change or modify the present pay of officers on the reserved list, either on leave or furlough.

*Ibid.* § 5.

Pay of masters.  
Reserved list.

94. The payments heretofore made to the clerks of yards and the commandants' clerks at the navy yards of Kittery and Philadelphia, under appropriations made by congress for that purpose, at the rate of twelve hundred dollars per annum, are hereby allowed and confirmed.

21 Feb. 1861 § 2.  
12 Stat. 150.

Clerks of yards,  
and commandants' clerks.

95. The pay of first clerks to commandants at all the navy yards shall be at the rate of twelve hundred dollars per annum, except that at [the] California navy yard, which shall be at the rate of fifteen hundred dollars per annum. That the laws approved 22d April 1854, 4th August 1854, 3d of March 1855, and 12th of June 1858, increasing the pay of clerks and others twenty per cent. at the Washington navy yard, be and the same are hereby repealed. (a)

*Ibid.* § 8.

Pay of commandants' clerks.

96. The pay of any captain of the navy who shall, in pursuance of law, perform duty as chief of a bureau in the navy department, shall be the pay of a captain in the navy "on other duty," to take effect from the date of the "Act regulating the pay of the navy," approved June 1, 1860.

14 July 1862 § 2.  
12 Stat. 565.

Pay of chiefs of bureaus.

97. The pay of the secretary of a commander of a squadron shall hereafter be fifteen hundred dollars a year and one ration.

*Ibid.* § 6.

98. From and after the passage of this act, the annual pay of the several ranks and grades of officers of the navy on the active list, hereinafter named, shall be as follows:

16 July 1862 § 15  
12 Stat. 565.

Rear admirals, when at sea, shall receive five thousand dollars;

Pay of officers.  
Rear admirals.

When on shore duty, four thousand dollars;

When on leave of absence or waiting orders, three thousand dollars.

99. Commodores, when at sea, shall receive four thousand dollars;

Commodores.

When on shore duty, three thousand two hundred dollars;

When on leave of absence or waiting orders, two thousand four hundred dollars.

100. Captains, when at sea, shall receive three thousand five hundred dollars;

Captains.

When on shore duty, two thousand eight hundred dollars;

When on leave of absence or waiting orders, two thousand one hundred dollars.

101. Commanders, when at sea, shall receive two thousand eight hundred dollars;

Commanders.

When on shore duty, two thousand and forty dollars;

When on leave of absence or waiting orders, one thousand six hundred and eighty dollars.

102. Lieutenant-commanders, when at sea, shall receive two thousand three hundred and forty-three dollars;

Lieutenant-commanders.

When on shore duty, one thousand eight hundred and seventy-five dollars;

When on leave of absence or waiting orders, one thousand five hundred dollars.

103. Lieutenants, when at sea, shall receive one thousand eight hundred and seventy-five dollars;

Lieutenants.

When on shore duty, one thousand and five hundred dollars;

- 16 July 1862.  
Masters. When on leave of absence or waiting orders, one thousand two hundred dollars.  
104. Masters, when at sea, shall receive one thousand five hundred dollars;  
When on shore duty, one thousand two hundred dollars;  
When on leave of absence or waiting orders, nine hundred and sixty dollars;  
Ensigns. 105. Ensigns, when at sea, shall receive one thousand two hundred dollars;  
When on shore duty, nine hundred and sixty dollars;  
When on leave of absence or waiting orders, seven hundred and sixty-eight dollars.  
Midshipmen. 106. Midshipmen shall receive five hundred dollars.  
Ibid. § 16. 107. Whenever any officer of the navy, of a class subject by law or regulation to examination before promotion to a higher grade, shall have been absent on duty at the time when he should have been examined, and shall have been found qualified at a subsequent examination, the increased rate of pay to which he may be entitled shall be allowed to him from the date when he would have received it had he been found qualified at the time when his examination should have taken place.  
When increased pay to commence Ibid. § 17. 108. In calculating the graduated pay of boatswains, gunners, carpenters and sail-makers in the navy, as established by law, the sea service shall be computed from the dates of their appointments or entry into the service in their respective grades, in lieu of the dates of their warrants.  
How sea service of warrant officers to be computed. Ibid. § 19. 109. All officers while at sea, or attached to a sea-going vessel, shall be allowed one ration.  
Ibid. § 20. 110. And no ration shall be allowed to any officers of the navy on the retired list. And the pay of all naval officers appointed by virtue of an act entitled "An act to provide for the temporary increase of the navy," approved July 24th 1861, shall be the same as that of officers of a like grade in the regular navy.  
Pay of temporary officers. 3 March 1863 § 6. 12 Stat. 818. 111. That the act to increase and regulate the pay of the navy of the United States, approved June 1st 1860, be so construed as it respects boatswains, gunners, carpenters and sail-makers of the navy, as to allow to those officers such arrears of pay, or difference of pay as they would be entitled to had their sea service been computed from the dates of their appointments, or entry into the service, in their respective grades, instead of the date of their warrants.

## IX. NAVY RATIONS.

- 18 July 1861 § 1. 12 Stat. 264. Navy ration. 112. The navy ration shall consist of the following daily allowance of provisions to each person: One pound of salt pork, with half a pint of beans or peas; or one pound of salt beef, with half a pound of flour, and two ounces of dried apples, or other dried fruit; or three quarters of a pound of preserved meat, with half a pound of rice, two ounces of butter and one ounce of desiccated "mixed vegetables;" or three quarters of a pound of preserved meat, two ounces of butter and two ounces of desiccated potato; together with fourteen ounces of biscuit, one quarter of an ounce of tea, or one ounce of coffee, or cocoa, two ounces of sugar and a gill of spirits; and of a weekly allowance of half a pound of pickles, half a pint of molasses and half a pint of vinegar.  
Ibid. § 2. 113. Fresh or preserved meat may be substituted for salt beef or pork, and vegetables for the other articles usually issued with the salted meats; allowing one and a quarter pound of fresh or three quarters of a pound of preserved meat for one pound of salted beef or pork; and regulating the quantity of vegetables so as to equal the value of the articles for which they may be substituted.  
Substitutes. Ibid. § 3. 114. Should it be necessary to vary the above-described daily allowance, it shall be lawful to substitute one pound of soft bread, or one pound of flour, or half a pound of rice, for fourteen ounces of biscuit; half a pint of wine, for a gill of spirits; half a pound of rice, for half a pint of beans or peas; half a pint of beans or peas, for half a pound of rice.  
Ibid. § 4. 115. In case of necessity, the daily allowance of provisions may be diminished or varied by the discretion of the senior officer present in command; but payment shall be made to the persons whose allowance shall be thus diminished, according to the scale of prices which is, or may be, established for the same; but a commander who shall thus make a diminution or variation shall report to his commanding officer, or to the navy department, the necessity for the same, and give to the paymaster written orders, specifying particularly the diminution or reduction which is to be made.  
When allowance may be diminished or varied. Compensation. Report. Ibid. § 7. 116. That the secretary of the navy be authorized to procure the preserved meats, pickles, butter and desiccated vegetables in such manner and under such restrictions and guarantees as in his opinion will best insure the good quality of said articles. (a)  
How preserved meats, &c., to be procured. 17 April 1862 § 4. 12 Stat. 381. 117. That the secretary of the navy be authorized to commute the navy ration of coffee and sugar for the extract of coffee combined with milk and sugar, to be procured in the same manner and under like restrictions and guarantees as are preserved meats, pickles,

(a) By act 14 July 1862, the secretary is authorized to have the preserved meats, forming part of the navy ration, prepared and packed under his direction, and to purchase the cattle or fresh beef therefor. 12 Stat. 561.

butter and desiccated vegetables, if he shall believe it will be conducive to the health and comfort of the navy, and not more expensive to the government than the present ration, and if it shall be acceptable to the men.

118. From and after the first day of September 1862, the spirit ration in the navy of the United States shall for ever cease; and thereafter no distilled spirituous liquors shall be admitted on board of vessels of war except as medical stores, and upon the order and under the control of the medical officers of such vessels, and to be used only for medical purposes. From and after the said first day of September next, there shall be allowed and paid to each person in the navy, now entitled to the spirit ration, five cents per day in commutation and lieu thereof, which shall be in addition to their present pay.

17 April 1862

14 July 1862 § 4.  
12 Stat. 565.

Spirit ration abolished.

Commutation therefor.

## X. NAVY EFFICIENCY BOARD.

119. The sixth section of the act of January 16th 1857, (a) entitled "An act to amend an act to promote the efficiency of the navy," shall be so construed as to include officers who, at the time they were dropped or placed on the reserved list, had been detached from duty or removed from command for supposed inefficiency or unfitness, but who have since been restored to the active list; and such officers shall receive the same pay they were receiving respectively when they were so detached or removed, up to the termination of their cruise when so detached, deducting any pay they may have otherwise received during the time aforesaid; and this shall extend to any officer who has been transferred from the furlough list to the leave of absence list by the president, with the advice and consent of the senate. Such officers of the navy as were dropped from the service by the action of the late "naval retiring board," and who have been subsequently restored to the service and placed upon the "furlough" or "leave pay" list, shall be allowed furlough pay, if placed upon the furlough list, and leave pay, if placed upon the leave list, for and during the time they were so dropped, deducting any pay which they otherwise received during the time aforesaid.

3 March 1859 § 3.  
11 Stat. 407.

Pay of officers restored to the active list.

Pay of officers restored to furlough or leave list.

120. Such officers as were placed upon the "furlough list," by the action of the said naval retiring board, and who have been subsequently transferred to the "leave list," shall be allowed "leave pay" for and during the time they were on the furlough list as aforesaid, deducting the furlough pay which they received during said time.

3 March 1859 § 8.  
11 Stat. 430.

Pay of officers transferred to leave list.

121. In case of the death of any officer after his restoration or transfer as aforesaid, his legal representatives shall be entitled to receive the amount which said officer would have received, under this act, up to the time of his death.

Ibid. § 9.

## XI. RETIRED LIST.

122. Any officer of the navy who has been forty years in the service of the United States may, upon his own application to the president of the United States, be placed upon the list of retired officers of the navy, and shall receive the pay and emoluments allowed by this act.

3 Aug. 1861 § 21.  
12 Stat. 290.

Certain officers may be retired at their own request.

Ibid. § 22.

What officers may be placed on retired list.

123. If any officer of the navy shall have become, or shall hereafter become, incapable of performing the duties of his office, he shall be placed upon the retired list, and withdrawn from active service and command, and from the line of promotion, with the following pay and emoluments, namely:

Pay.

- Surgeons ranking with captains, thirteen hundred dollars;
- Surgeons ranking with commanders, eleven hundred dollars;
- Surgeons ranking with lieutenants, one thousand dollars;
- Paymasters ranking with captains, thirteen hundred dollars;
- Paymasters ranking with commanders, eleven hundred dollars;
- Paymasters ranking with lieutenants, one thousand dollars.
- Chief engineers, one thousand dollars;
- First assistant engineers, seven hundred dollars;
- Second assistant engineers, five hundred dollars;
- Third assistant engineers, four hundred dollars.

The next officer in rank shall be promoted to the place of the retired officer, according to the established rules of the service. And the same rule of promotion shall be applied successively to the vacancies consequent upon the retirement of an officer.

Promotions.

124. Whenever any officer of the navy, on being ordered to perform the duties appropriate to his commission, shall report himself unable to comply with such order, or whenever, in the judgment of the president of the United States, an officer of the navy shall be in any way incapacitated from performing the duties of his office, the president, at his discretion, shall direct the secretary of the navy to refer the case of such officer to a board of not more than nine, and not less than five, commissioned officers, two-fifths of whom shall be members of the medical bureau of the navy; the board, except those

Ibid. § 23.

Board of examination of disabled officers.

(a) Ante 675, pl. 171.



- 3 August 1861. taken from the medical bureau, to be composed, if possible (as far as may be), of his seniors in rank. The determination of the board in each case shall, with a record of its proceedings, be transmitted to the secretary of the navy, to be laid before the president for his approval or disapproval and orders in the case. The board, whenever it finds an officer incapacitated for active service, will report whether, in its judgment, the incapacity result from long and faithful service, from wounds or injury received in the line of duty, from sickness or exposure therein, or from any other incident of service; if so, and the president approve of such judgment, the disabled officer shall thereupon be placed upon the list of retired officers, according to the provisions of this act. But if such disability or incompetency proceeded from other causes, and the president concur in opinion with the board, the officer may be retired upon furlough pay, or he shall be wholly retired from the service, with one year's pay, at the discretion of the president; and in this last case his name shall be wholly omitted from the navy register. The members of the board shall, in every case, be sworn to an honest and impartial discharge of their duties, and no officer of the navy shall be retired, either partially or wholly, from the service without having had a fair and full hearing before the board, if he shall demand it.
- Report.
- Members to be sworn.
- Hearing.
- Ibid.* § 24. 125. The retired officers shall be entitled to wear the uniform of their respective grades, shall continue to be borne upon the navy register, shall be subject to the rules and articles governing the navy, and to trial by general court martial.
- Rights and duties of retired officers.
- Ibid.* § 25. 126. Retired officers of the army, navy and marine corps may be assigned to such duties as the president may deem them capable of performing, and such as the exigencies of the public service may require.
- To what duties they may be assigned.
- 21 Dec. 1861 § 1. 12 Stat. 3-9. 127. Whenever the name of any naval officer now in the service, or who may hereafter be in the service of the United States, shall have been borne on the naval register forty-five years, or shall be of the age of sixty-two years, he shall be retired from active service, and his name entered on the retired list of officers of the grade to which he belonged at the time of such retirement.
- What officers to be retired.
- Ibid.* § 2. 128. That the president of the United States be and he is hereby authorized to assign any officer who may be retired under the preceding section of this act to shore duty, and such officer thus assigned shall receive the full shore pay of his grade while so employed.
- May be assigned to shore duty on full pay.
- Ibid.* § 3. 129. The president of the United States, by and with the advice and consent of the senate, shall have the authority to detail from the retired list of the navy, for the command of squadrons and single ships, such officers as he may believe that the good of the service requires to be thus placed in command; and such officers may, if, upon the recommendation of the president of the United States, they shall receive a vote of thanks of congress, for their services and gallantry in action against an enemy, be restored to the active list, and not otherwise.
- May be detailed to command ships or squadrons.
- When they may be restored to the active list.
- Ibid.* § 4. 130. The president of the United States shall have the authority to select any officer from the grades of captain or commander in the navy, and assign him to the command of a squadron, with the rank and title of a "flag officer;" and any officer thus assigned shall have the same authority, and receive the same obedience from the commanders of ships in his squadron holding commissions of an older date than his, that he would be entitled to receive were his commission the oldest; and to receive, when so employed, the pay to which he would have been entitled if he were on the active list of the navy.
- May be selected to act as flag officers.
- Ibid.* § 5. 131. All officers retired under the provisions of this act shall receive the retired pay of their respective grades as fixed by law.
- Ibid.* § 6. 132. Promotions shall be made in place of the officers retired under the provisions of this bill as is now provided by law.
- 16 July 1862 § 14. 12 Stat. 585. 133. There may be allowed upon the retired list, nine rear admirals, and eighteen commodores. The rear admirals shall be selected by the president, by and with the advice and consent of the senate, from those captains who have given the most faithful service to their country. The eighteen commodores shall be recommended from the list of captains, by an advisory board of admirals. After the above numbers are commissioned, promotion to these grades upon the retired list shall be by seniority, subject to an advisory board.
- Retired admirals and commodores.
- Ibid.* § 20. 134. The relative rank between officers of the navy and army on the retired list shall be the same as on the active list, and the annual pay of retired naval officers shall be as follows, viz.:
- Relative rank and pay of retired officers.
- Admirals, two thousand dollars.  
Commodores, eighteen hundred dollars.  
Captains, sixteen hundred dollars.

Commanders, fourteen hundred dollars.  
 Lieutenant-commanders, thirteen hundred dollars.  
 Lieutenants, one thousand dollars.  
 Masters, eight hundred dollars.  
 Ensigns, five hundred dollars.

16 July 1862.

135. Any captain in the navy retired by the act entitled "An act to further promote the efficiency of the navy," approved December 21, 1861, duly recommended according to law, may be promoted to the grade of commodore upon the retired list.

3 March 1863 § 1.  
 12 Stat. 769.

Promotion to  
 rank of commo-  
 dore.

## XII. NAVAL ACADEMY.

136. That the president of the United States be and he is hereby authorized to annually appoint ten acting midshipmen, for education at the naval academy, who shall be selected from the sons of officers or soldiers who distinguished themselves in the service of the United States, or from the sons of officers or men in the naval or marine service of the United States who have thus distinguished themselves.

14 July 1862 § 8  
 12 Stat. 565. ✓

Appointments  
 at large.

137. The District of Columbia shall be regarded for all the purposes of appointment to the naval academy as a congressional district, their appointment thereto to be designated by the president of the United States from residents of the district.

Ibid. § 9.

From District of  
 Columbia.

138. The students at the naval academy shall be styled midshipmen [and] until their final graduating examination, when, if successful, they shall be commissioned ensigns, ranking according to merit. The number allowed at the academy shall be two for every member and delegate of the house of representatives, two for the District of Columbia, and ten at large. They shall be between the ages of fourteen and seventeen, physically sound and well formed, and of robust constitution. They shall be examined for admittance into the academy according to the regulations which shall be issued by the secretary of the navy, and if rejected, shall not have the privilege of another examination for admission to the same class, unless recommended by the board of examiners. The president shall select the two from the District of Columbia, and the ten at large, and the president shall also be allowed three yearly appointments of midshipmen, who shall be not over eighteen years of age, who shall be selected from boys enlisted in the navy, and who have been at least one year in the service, six months of which shall have been sea service. From and after the fifth of March 1863, the nomination of candidates for admission into the naval academy shall be made between the fifth of March and the first of July of each year, upon the recommendation of the member or delegate, from actual residents of his district, and they shall be examined for admission in July: *Provided*, That when any candidate who has been so nominated shall upon examination be found physically or mentally disqualified for admission, the member or delegate from whose district he was so nominated shall be notified to recommend another candidate, who shall be examined in September following. And it shall be the duty of the secretary of the navy, as soon after the fifth of March as possible, to notify in writing each member and delegate of any vacancy that may exist in his district; and if said member or delegate neglects to recommend a candidate by the first of July in that year, then it shall be the duty of the secretary of the navy to fill the vacancy. Midshipmen deficient at any examination shall not be continued at the academy or in the service, unless upon recommendation of the academic board; nor shall any officer of the navy who has been dismissed by sentence of a court martial, or suffered to resign to escape one, ever again become an officer of the navy: *Provided, however*, That no greater number of midshipmen shall be appointed by the president at large, under this or any other law of congress, than shall be allowed by the provisions of this section.

16 July 1862 § 11.  
 12 Stat. 565.

Students to be  
 styled midship-  
 men. ✓

To be commis-  
 sioned as ensigns.

Number.

Qualifications.

Appointments.

Officers dismis-  
 sed, not to re-  
 enter the navy.

## XIII. NAVY CONTRACTS.

139. Not more than three thousand dollars shall be expended at any navy yard in repairing the hull and spars of any vessel, until the necessity and expediency of such repair, and the probable cost thereof be ascertained and reported to the navy department by an examining board, to be composed of one captain or commander in the navy, to be appointed by the secretary of the navy, the naval constructor of the yard where any vessel may be ordered for repairs, and two master workmen of such yard, or one master workman and an engineer of the navy, according to the nature of the repairs to be made; said master workmen and engineer to be designated by the head of the bureau of construction and repairs. And not more than one thousand dollars shall be expended in repairs on the sails and rigging of any vessel until the expediency and necessity of such repairs, and the estimated cost thereof, have been ascertained and reported to the navy department by an examining board, to be composed of one naval officer, to be appointed by the secretary of the navy, and the master rigger and master

22 June 1860 § 1.  
 12 Stat. 90.

Limitation of  
 power to contract  
 for repairs.

22 June 1860.

Estimates and expenditures for contingent expenses.

14 July 1862 § 1.  
12 Stat. 562.

Navy officers to make contracts, when practicable

Limitation of compensation of agents.

12 June 1858 § 1.  
11 Stat. 315.

When foreign hemp may be purchased.

18 July 1861 § 3.  
12 Stat. 288.

Use of patented articles regulated.

5 August 1861 § 2.  
12 Stat. 316.

Desertion of officers defined.

21 Dec. 1861 § 7.  
12 Stat. 330.

Medals of honor for gallant services.

17 July 1862 § 17.  
12 Stat. 598.

Dismissal of officers.

3 March 1863 § 4.  
12 Stat. 818.

Manufacture of bread for the navy.

sailmaker of the yard where such vessel may be ordered: (a) *Provided*, That the secretary of the navy cause a careful examination to be made, by naval officers, engineers and constructors, into the condition of the sailing vessels of the navy, and the cost of giving them or any of them full steam power, together with the expediency of making such change, in view of the cost, condition, model and general character of such vessels so altered; and that the report of such officers, together with the secretary's views thereon, be communicated to congress at its next session.

140. The expenditures under the foregoing appropriations [for contingent expenses] shall be so accounted for as to show the disbursements by each bureau, under each respective appropriation: *And provided further*, That the estimates for expenditures for such purposes shall hereafter be given in detail.

141. Hereafter, in all cases where the officers of the navy can be made available, consistently with the public service, in making contracts for the charter of vessels and the purchase of additional steam-vessels, no other person or persons shall be employed; nor shall such officers, when so employed, receive any compensation in addition to their official pay. And when any other person or persons than an officer of the navy shall be employed, the compensation shall not exceed the sum of five thousand dollars, for all contracts for purchases or charters, in any one year, made under the provisions of this act.

#### XIV. PURCHASE OF HEMP.

142. There shall not be purchased any larger quantity of hemp of foreign growth for the use of the navy than shall be required to meet the deficiency in the supply of the American article, as reported to the navy department, from quarter to quarter, by the agents appointed to procure the article of American growth: *Provided further*, That hemp of American growth of like quality, can be purchased at the same price as hemp of foreign growth.

#### XV. MISCELLANEOUS PROVISIONS.

143. No patented article connected with marine engines shall be hereafter purchased or attached to, or used in connection with any steam-vessel of war, until the same shall have been submitted to and officially recommended in writing for purchase and use, by a competent board of naval engineers.

144. Any commissioned officer of the army, navy or marine corps, who having tendered his resignation, shall, prior to due notice of acceptance of the same by the proper authority, and without leave, quit his post or proper duties, with intent to remain permanently absent therefrom, shall be registered as a deserter, and punished as such.

145. That the secretary of the navy be and he is hereby authorized to cause two hundred "medals of honor" to be prepared, with suitable emblematic devices, which shall be bestowed upon such petty officers, seamen, landsmen and marines as shall most distinguish themselves by their gallantry in action and other seamanlike qualities during the present war; and that the sum of one thousand dollars be and the same is hereby appropriated out of any money in the treasury, for the purpose of carrying this section into effect.

146. That the president of the United States be and hereby is authorized and requested to dismiss and discharge from the military service, either in the army, navy or marine corps, or volunteer force in the United States service, any officer, for any cause which, in his judgment, either renders such officer unsuitable for, or whose dismissal would promote, the public service.

147. That the secretary of the navy be and he is hereby authorized to purchase, in such manner as he shall deem most advantageous to the government, the flour required for naval use; and to have the bread for the navy baked from this flour by special contract under naval inspection.

(a) The foregoing provision is re-enacted by act 21 February 1861 § 1. 12 Stat. 147.

A seaman charged, before a court martial, with desertion, may be found guilty of attempting to desert. *Dynes v. Hoover*, 20 How. 65.

The oath of an enlisted minor, as to his age, though conclusive

upon himself, is not so upon his parent, or other person who claims a legal right to his services. *Webb's Case*, 10 Pittsburgh Leg. J. 106. *Contra*, *United States v. Taylor*, 20 Leg. Int. 284.

## Navy Department.

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| <ol style="list-style-type: none"> <li>1. Assistant secretary to be appointed. Salary.</li> <li>2. Additional clerks.</li> <li>3. Commanders may be appointed heads of bureaus, &amp;c.</li> <li>4. Bureaus in the navy department.</li> <li>5. Appointment of chiefs of bureaus. Salaries. Term of office.</li> <li>6. Officers in secretary's office.</li> <li>7. Bureau of yards and docks.</li> <li>8. Bureau of equipment and recruiting.</li> <li>9. Bureau of navigation.</li> <li>10. Bureau of ordnance.</li> </ol> | <ol style="list-style-type: none"> <li>11. Bureau of construction and repair.</li> <li>12. Bureau of steam engineering.</li> <li>13. Bureau of provisions and clothing.</li> <li>14. Bureau of medicine and surgery.</li> <li>15. Watchmen and laborers.</li> <li>16. Distribution of duties.</li> <li>17. Heads of bureaus to furnish estimates.</li> <li>18. Franking privilege.</li> <li>19. Regulations equalized.</li> <li>20. Secretary may detail clerks, &amp;c., to other bureaus.</li> </ol> |
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1. The president shall appoint, in the department of the secretary of the navy, by and with the advice and consent of the senate, a competent person, who shall be called the assistant secretary of the navy, whose salary shall be four thousand dollars, payable in the same manner as the salary of the secretary of the navy, who shall perform all such duties in the office of the secretary of the navy, belonging to that department, as shall be prescribed by the secretary of the navy, or as may be required by law, and who shall act as secretary of the navy in the absence of that officer.

31 July 1861 § 1.  
12 Stat. 282.

Assistant secretary to be appointed.

Salary. -

2. That there be added to the clerical force of the navy department eight additional clerks, with a salary of twelve hundred dollars each per annum.(a)

Ibid. § 2.

Additional clerks  
2 August 1861 § 1.  
12 Stat. 285.

3. That the above entitled act(b) be and the same is hereby amended by inserting after the word "captain," where the same first occurs in said act, the words "or commander;" so that the president shall be authorized to select the superintendents of the several navy yards and heads of bureaus from the captains or commanders of the navy of the United States.

Commanders may be appointed heads of bureaus, &c.

5 July 1862 § 1.  
12 Stat. 510.

Bureaus in the navy department

4. There shall be established in the navy department the following bureaus, to wit:

- I. A bureau of yards and docks.
- II. A bureau of equipment and recruiting.
- III. A bureau of navigation.
- IV. A bureau of ordnance.
- V. A bureau of construction and repair.
- VI. A bureau of steam engineering.
- VII. A bureau of provisions and clothing.
- VIII. A bureau of medicine and surgery.

5. The president of the United States, by and with the advice and consent of the senate, shall appoint from the list of officers of the navy, not below the grade of commander, a chief for each of the bureaus of yards and docks, navigation, equipment and recruiting, and of ordnance; and shall in like manner appoint a chief of the bureau of construction and repair, who shall be a skilful naval constructor; and shall also appoint a chief of the bureau of steam engineering, who shall be a skilful engineer, and be selected from the list of chief engineers of the navy; and shall also appoint a chief of the bureau of medicine and surgery, who shall be selected from the list of the surgeons of the navy; and a chief of the bureau of provisions and clothing, who shall be selected from the list of paymasters of the navy of not less than ten years' standing; each of which chiefs of bureaus shall receive a salary of three thousand five hundred dollars per annum, unless otherwise heretofore provided for by law,(c) which shall be in lieu of all other compensation whatever. The said chiefs of bureaus to hold their said offices for the term of four years: *Provided*, That nothing herein contained shall be construed to affect any provision heretofore made by law for special cases.

Ibid. § 2.

Appointment of chiefs of bureaus.

Salaries.

Term of office.

6. The secretary of the navy shall appoint the following clerks and other officers, to wit:

Ibid. § 3.

Officers in secretary's office.

For the office of the secretary of the navy, a chief clerk, who shall receive a salary of two thousand two hundred dollars per annum; one clerk at a salary of eighteen hundred dollars, who shall also be disbursing clerk with a salary of two hundred dollars; five clerks with a salary of sixteen hundred dollars each; three clerks with a salary of fourteen hundred dollars each; four clerks with a salary of twelve hundred dollars each; one messenger at nine hundred dollars per annum; one assistant messenger at seven hundred dollars, and two laborers at six hundred dollars each per annum.

7. For the bureau of yards and docks, one civil engineer, who shall receive a salary of two thousand dollars; one chief clerk at eighteen hundred dollars; one clerk at sixteen hundred dollars; three clerks at fourteen hundred dollars each; one draughtsman at

Bureau of yards and docks.

(a) See tit. "Clerks," 7.

(b) This is a supplement to the act of 27 March 1864 (ante 682,

pl. 1), which however only applies to the appointment of superintendents of navy yards.

(c) See tit. "Navy," 96.

5 July 1862.

Bureau of  
equipment and  
recruiting.

fourteen hundred dollars; one clerk at twelve hundred dollars; one messenger at eight hundred and forty dollars; and two laborers at six hundred dollars each per annum.

8. For the bureau of equipment and recruiting, one chief clerk, who shall receive a salary of eighteen hundred dollars; two clerks at a salary of fourteen hundred dollars each; one clerk at a salary of twelve hundred dollars; one messenger at a salary of eight hundred and forty dollars.

Bureau of navi-  
gation.

9. For the bureau of navigation, one chief clerk at eighteen hundred dollars; one clerk who shall receive a salary of fourteen hundred dollars; one clerk at twelve hundred dollars; one messenger at eight hundred and forty dollars.

Bureau of ord-  
nance.

10. For the bureau of ordnance, one assistant, to be selected from the commissioned officers of the navy, with the pay of three thousand dollars per annum; one draughtsman at fourteen hundred dollars; one clerk at fourteen hundred dollars; one messenger at eight hundred and forty dollars per annum; and one laborer at six hundred dollars; and one laborer at four hundred and eighty dollars per annum.

Bureau of con-  
struction and  
repair.

11. For the bureau of construction and repair, one chief clerk at a salary of eighteen hundred dollars a year; one draughtsman at fourteen hundred dollars per annum; five clerks at a salary of fourteen hundred dollars each; one at twelve hundred dollars; one messenger at a salary of eight hundred and forty dollars per annum; and one laborer at six hundred dollars per annum.

Bureau of steam  
engineering.

12. For the bureau of steam engineering, one chief clerk at a salary of eighteen hundred dollars; one draughtsman at fourteen hundred dollars; one clerk at fourteen hundred dollars; one assistant draughtsmen at twelve hundred dollars; one messenger at eight hundred and forty dollars salary per annum; and one laborer at six hundred dollars per annum.

Bureau of  
provisions and  
clothing.

13. For the bureau of provisions and clothing, one chief clerk with a salary of eighteen hundred dollars; four clerks with a salary of fourteen hundred dollars each; one clerk with a salary of twelve hundred dollars; one messenger with a salary of eight hundred and forty dollars per annum; and one laborer with a salary of six hundred dollars per annum.

Bureau of medi-  
cine and surgery.

14. For the bureau of medicine and surgery, two clerks with a salary of fourteen hundred dollars each; and one messenger with a salary of eight hundred and forty dollars per annum.

Watchmen and  
laborers.

15. For the protection of the building occupied by the department, one day watchman and two night watchmen at a salary of six hundred dollars each per annum; and for the general care of the building, furnace and grounds, one laborer at a salary of six hundred dollars, and one laborer at a salary of three hundred and sixty dollars.

Ibid. § 4.

Distribution of  
duties.

16. The secretary of the navy shall assign and distribute among the said bureaus such of the duties of the navy department as he shall judge to be expedient and proper; and all of the duties of the said bureaus shall be performed under the authority of the secretary of the navy, and their orders shall be considered as emanating from him, and shall have full force and effect as such.

Ibid. § 5.

Heads of bureaus  
to furnish esti-  
mates.

17. All estimates for specific, general and contingent expenses of the department, and of the several bureaus, shall be furnished to the secretary of the navy by the chiefs of the respective bureaus, and all such appropriations shall be under the control and expended by the direction of the secretary of the navy, and the appropriation for each bureau shall be kept separate in the treasury.

Ibid. § 6.

Franking privi-  
lege.

18. The chiefs of the respective bureaus of the navy department shall be authorized to frank all communications from their respective bureaus; and all communications to their bureaus on the business thereof shall be free of postage.

14 July 1862 § 5.  
12 Stat. 566.

Regulations.

19. That the orders, regulations and instructions heretofore issued by the secretary of the navy, be and they are hereby recognised as the regulations of the navy department, subject, however, to such alterations as the secretary of the navy may adopt, with the approbation of the president of the United States.

16 July 1862 § 18.  
12 Stat. 568.

Secretary may  
detail clerks, &c.,  
to other bureaus.

20. That the secretary of the navy be and he hereby is authorized to assign clerks and laborers attached to one bureau to duty in another, and also to detail a surgeon or assistant surgeon, or passed assistant surgeon, as assistant to the bureau of medicine and surgery, who shall receive the highest shore pay of his grade.

## Navy Yards.

1. Compensation of employees.
2. Pay of clerks, &c., at Mare Island.

3. Hours of labor and wages.
4. Pay of commandant at Mare Island.

1. Hereafter no salaries shall be paid to any employee in any of the navy yards except to those designated in the estimates. All other persons shall receive a per diem compensation for the time during which they were actually engaged.

14 July 1862 § 1  
12 Stat. 564.

2. The pay of the clerks of the navy yard and navy agency at Mare Island shall be as follows, viz.: one clerk to navy agent, two thousand dollars per annum; one clerk to navy agent, fifteen hundred dollars; one clerk to the commandant, fifteen hundred dollars; one clerk of the yard, fifteen hundred dollars; one clerk to the paymaster and inspector of provisions, and so forth, fifteen hundred dollars; one clerk to the naval constructor, nine hundred dollars; one clerk to the civil engineer, nine hundred dollars; one draughtsman to civil engineer, twelve hundred dollars; one steward to paymaster, seven hundred and fifty dollars.

Compensation of employees.

Ibid. § 3.

Pay of clerks, &c., at Mare Island.

3. The hours of labor and the rate of wages of the employees in the navy yards shall conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity of the respective yards, to be determined by the commandants of the navy yards, subject to the approval and revision of the secretary of the navy.

16 July 1862 § 1.  
12 Stat. 587.

Hours of labor and wages in navy yards.

4. The pay of the officer of the navy assigned to the command of the navy yard at Mare Island, California, shall be the sea pay of his grade.

3 March 1863 § 1.  
12 Stat. 825.

## Nebraska.

1. Addition to Nebraska territory.

1. Until congress shall otherwise direct, that portion of the territories of Utah and Washington between the forty-first and forty-third degrees of north latitude, and east of the thirty-third meridian of longitude west from Washington, shall be, and is hereby, incorporated into and made a part of the territory of Nebraska.

2 March 1861 § 21.  
12 Stat. 244.

Addition to Nebraska territory.

## Nevada.

### I. TERRITORIAL GOVERNMENT.

1. Territory of Nevada. Boundaries. Assent of California to be obtained. Indian rights not to be impaired; or authority of the general government to treat with them affected. May be divided or attached to other states or territories.

2. Boundaries enlarged.

### II. EXECUTIVE AUTHORITY.

3. Governor. Term of office. Residence. His powers, &c.

4. Secretary. His powers and duties. When to act as governor.

### III. LEGISLATIVE POWER.

5. Constitution of the legislative assembly. Council. House of representatives. Apportionment. Residence. Census. First election. New election in case of a tie. Subsequent elections. Duration of sessions.

6. Qualifications of voters.

7. Extent of legislative power.

8. Appointment of township, district and county officers.

9. Exclusion of members from office.

### IV. JUDICIARY.

10. Supreme court. District courts. Jurisdiction. Justices

of the peace. Chancery powers, &c. Clerks of district courts. Errors and appeals. Clerk of supreme court. Jurisdiction of supreme court of the United States. Powers of the district courts. Habeas corpus. What causes to have precedence. Fees of clerks.

11. District attorney. Marshal.

12. Judicial districts.

13. Laws of the United States extended to Nevada.

### V. LANDS AND LAND OFFICES.

14. School lands.

15. Surveyor-general.

16. District of Nevada.

17. Register and receiver.

18. When surveys to be made for settlers.

### VI. MISCELLANEOUS PROVISIONS.

19. Appointment of territorial officers. Oath of office. Salaries. Compensation of members of assembly. Contingent expenses.

20. Seat of government.

21. Delegate to congress.

### I. TERRITORIAL GOVERNMENT.

1. That all that part of the territory of the United States included within the following limits, to wit: beginning at the point of intersection of the forty-second degree of north latitude with the thirty-ninth degree of longitude west from Washington; thence, running south on the line of said thirty-ninth degree of west longitude, until it intersects the northern boundary line of the territory of New Mexico; thence due west to

2 March 1861 § 1.  
12 Stat. 209.

Territory of Nevada.  
Boundaries.

- 2 March 1861. the dividing ridge separating the waters of Carson Valley from those that flow into the Pacific; thence on said dividing ridge northwardly to the forty-first degree of north latitude; thence due north to the southern boundary line of the state of Oregon; thence due east to the place of beginning, be, and the same is hereby, erected into a temporary government by the name of the territory of Nevada: *Provided*, That so much of the territory within the present limits of the state of California shall not be included within this territory until the state of California shall assent to the same by an act irrevocable without the consent of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Nevada, until said tribe shall signify their assent to the president of the United States to be included within the said territory; or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property or other rights, by treaty, law or otherwise, which it would have been competent for the government to make if this act had never passed: *Provided further*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory into two or more territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other territory or state.
- Assent of California to be obtained
- Indian rights not to be impaired.
- Or authority of the general government to treat with them affected.
- May be divided, or attached to other states or territories.
- 14 July 1862 § 1. 12 Stat. 575. 2. That all that part of the territory of the United States included within the following limits, namely: beginning at the point of intersection of the forty-second degree of north latitude with the thirty-eighth degree of longitude west from Washington; thence running south on the said thirty-eighth degree of west longitude until it intersects the northern boundary line of New Mexico; thence due west to the thirty-ninth degree of longitude west from Washington; thence with said thirty-ninth degree north to the intersection of said forty-second degree of north latitude; thence east with said forty-second degree of north latitude to the place of beginning, be, and the same is hereby, attached to and made a part of the territory of Nevada, subject to the limitations, restrictions and provisions of the act organizing the territory of Nevada.
- Boundaries enlarged.

## II. EXECUTIVE AUTHORITY.

- 2 March 1861 § 2. 12 Stat. 210. 3. The executive power and authority in and over said territory of Nevada shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of said territory, and reprieves for offences against the laws of the United States until the decision of the president can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.
- Governor.
- Term of office.
- Residence.
- His powers, &c.
- Ibid. § 3. 4. There shall be a secretary of said territory, who shall reside therein, and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the president of the United States, and at the same time two copies of the laws to the speaker of the house of representatives and the president of the senate, for the use of congress; and in case of the death, removal or resignation, or other necessary absence of the governor from the territory, the secretary shall have and he is hereby authorized and required to execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.
- Secretary.
- His powers and duties.
- When to act as governor.

## III. LEGISLATIVE POWER.

- 2 March 1861 § 4. 12 Stat. 210. 5. The legislative power and authority of said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of thirteen members, which may be increased to twenty-six, possessing the same qualifica-
- Constitution of the legislative assembly.
- Council.
- House of representatives.

tions as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and house of representatives, giving to each section of the territory representation in the ratio of its population (Indians excepted), as nearly as may be; and the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the territory to be taken; and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected having the highest number of votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place and manner of holding and conducting all elections by the people, and the apportioning the representations, in the several counties or districts to the council and house of representatives, according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.

2 March 1861.  
Apportionment.

Residence.

Census.

First election.

New election in case of a tie.

Subsequent elections.

Duration of sessions.

6. Every free white male inhabitant of the United States above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the constitution of the United States.

*Ibid.* § 5.

Qualifications of voters.

7. The legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall any law be passed impairing the rights of private property; nor shall any discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.

*Ibid.* § 6.

Extent of legislative power

8. All township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and, in the first instance, the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

*Ibid.* § 7.

Appointment of township, district and county officers.

9. No member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said territory.

*Ibid.* § 8.

Exclusion of members from office.

#### IV. JUDICIARY.

10. The judicial power of said territory shall be vested in a supreme court, district courts, probate courts and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually, and they shall hold their offices during the period of four years. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said

2 March 1861 § 9.  
12 Stat. 212.

Supreme court.

District courts.



**2 March 1861.** districts by one of the justices of the supreme court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars. And the said supreme and district courts respectively shall possess chancery as well as common law jurisdiction; and authority for redress of all wrongs committed against the constitution or laws of the United States, or of the territory, affecting persons or property. Each district court or the judge thereof shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court or the justices thereof shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy to be ascertained by the oath or affirmation of either party or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are grantable by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeals in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Utah territory now receive for similar services.

**Ibid. § 10.** 11. There shall be appointed an attorney for said territory, who shall continue in office for four years, unless sooner removed by the president, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Utah. There shall also be a marshal for the territory appointed, who shall hold his office for four years, unless sooner removed by the president, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

**Ibid. § 15.** 12. Temporarily, and until otherwise provided by law, the governor of said territory may define the judicial districts of said territory and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter or modify such judicial districts, and assign the judges and alter the times and places of holding the courts as to them shall seem proper and convenient.

**Ibid. § 16.** 13. The constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said territory of Nevada as elsewhere within the United States.

#### V. LANDS AND LAND OFFICES.

**2 March 1861 § 14.** 14. When the land in said territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same is hereby, reserved for the purpose of being applied to schools in the states hereafter to be erected out of the same.

**Ibid. § 17.** 15. The president of the United States, by and with the advice and consent of the senate, shall be, and he is hereby, authorized to appoint a surveyor-general for Nevada, (a) who shall locate his office at such place as the secretary of the interior shall from time

(a) See tit. "Lands," 12-13.

to time direct, and whose duties, powers, obligations, responsibilities, compensation and allowances for clerk hire, office rent, fuel and incidental expenses, shall be the same as those of the surveyor-general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give him.

2 March 1861.

16. The public lands of the United States in the territory of Nevada shall constitute a land district, to be called the District of Nevada, the office for which shall be established at such place within said district as the president of the United States may from time to time direct; and the pre-emption laws are hereby extended to said territory.

2 July 1862 § 1.  
12 Stat. 503.

District of  
Nevada.

Ibid. § 2.

Register and  
receiver.

17. That the president be and he is hereby authorized to appoint, by and with the advice and consent of the senate, a register and receiver for said district, who shall be required to reside at the site of said office, and who shall have the same powers and perform the same duties as are now or may hereafter be prescribed by law for other land officers, and whose compensation shall be the same as allowed to such officers by the act approved April 20th 1818, entitled "An act for changing the compensation of receivers and registers of the land offices."

Ibid. § 3.

When surveys to  
be made for set-  
tlers.

18. When the settlers in any township or townships, not mineral or reserved by government, shall desire a survey made of the same under the authority of the surveyor-general of the United States, and shall file an application therefor in writing, and deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenses incident thereto, without cost or claim for indemnity on the United States, it shall and may be lawful for said surveyor-general, under such instructions as may be given him by the commissioner of the general land office, and in accordance with existing laws and instructions, to survey such township or townships, and make return thereof to the general and proper local land office: *Provided*, That the townships so proposed to be surveyed are within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.

#### VI. MISCELLANEOUS PROVISIONS.

19. The governor, secretary, chief justice and associate justices, attorney and marshal shall be nominated and, by and with the advice and consent of the senate, appointed by the president of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws and other incidental expenses; and the secretary of the treasury shall annually account to the secretary of the treasury of the United States for the manner in which the aforesaid sum shall have been expended.

2 March 1861 § 11.  
12 Stat. 213.

Appointment  
of territorial  
officers.

Oath of office.

Salaries.

Compensation of  
members of  
assembly.

Contingent  
expenses.

20. The legislative assembly of the territory of Nevada shall hold its first session at

Ibid. § 12.

2 March 1861.  
Seat of govern-  
ment.

Ibid. § 12.  
Delegate to  
congress.

such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

21. A delegate to the house of representatives of the United States, to serve during each congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives. The first election shall be held at such time and places, and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections the times, places and manner of holding elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

## New Mexico.

### I. LAND OFFICE.

1. Land district of New Mexico.
2. Register and receiver.
3. Compensation.

### II. COLLECTION DISTRICT.

4. District of Paso del Norte.
5. Jurisdiction of district court.

### I. LAND OFFICE.

24 May 1858 § 1.  
11 Stat. 292.  
District of New  
Mexico.

Ibid. § 2.  
Register and  
receiver.

12 June 1858 § 1.  
11 Stat. 325.  
Compensation.

1. The public lands in the territory of New Mexico, to which the Indian title shall have been extinguished, shall constitute a land district to be called the "District of New Mexico," the office for which shall be established at such place within said district as the president of the United States may from time to time direct. (a)

2. For the purpose of carrying this act into effect, the president shall be and he is hereby authorized to appoint, by and with the advice and consent of the senate, or during the recess thereof, a register and receiver for the district hereby created; who shall be required to reside at the site of the office, and whose powers, duties, obligations and responsibilities shall be the same as are now prescribed by law for other land officers, so far as they apply to these officers.

3. The register of the land office and receiver of public moneys in the territory of New Mexico shall receive the same compensation now allowed by law to the same class of officers in Washington territory: *Provided*, Their compensation, including fees, shall not exceed three thousand dollars each per annum.

### II. COLLECTION DISTRICT.

3 March 1857 § 1.  
12 Stat. 761.  
District of Paso  
del Norte.

Ibid. § 2.  
Jurisdiction of  
district court.

4. That the tenth section of an act entitled "An act making appropriations for the legislative, executive and judicial expenses of the government for the year ending 30th of June 1858," approved March 3d 1857, be and the same is hereby repealed; and the act entitled "An act creating a collection district in Texas and New Mexico," approved August 2d 1854, is hereby revived and re-enacted: *Provided*, That the collector shall reside at El Paso, Texas, instead of Frontera.

5. The jurisdiction of the district court of New Mexico shall extend over the citizens of El Paso county, Texas, only in cases not instituted by indictment, and the trial and proceedings for violations of the revenue laws in said district court of New Mexico shall be the same as in other district courts of the United States invested with admiralty powers; and this act shall take effect from and after its passage.

(a) By order of the president the land office has been located at Santa Fe.

# New York.

## I. DISTRICT COURTS.

1. Act of 7 July 1838 § 3 repealed.

## II. DISTRICT ATTORNEY.

2. Salary and allowances.  
3. Settlement of accounts.

## III. COLLECTION DISTRICTS.

4. Part of New Jersey added to the collection district of New York. Assistant collector at Jersey City.  
5. Assistant collector to be appointed for the port of New York.  
6. District of Cape Vincent enlarged. Niagara. Suspension Bridge to be the port of entry instead of Lewiston.  
7. Rouse's Point to be a port of entry in place of Plattsburg.

## I. DISTRICT COURTS.

1. That the third section of the act entitled "An act to increase and regulate the terms of the circuit and district courts for the northern district of the state of New York," approved July 7th 1838, (a) be and the same is hereby repealed.

24 March 1860 § 1.  
12 Stat. 3.  
Act 7 July 1838  
§ 3 repealed.

## II. DISTRICT ATTORNEY.

2. There shall be paid to the attorney of the United States for the southern district of New York, quarterly, a salary at the rate of six thousand dollars per annum, and such additional sum as shall be necessary, together with the costs and fees now allowed by law, to pay such amount as shall be fixed by the secretary of the interior for the proper expenses of the office, including salaries of assistants and clerks.

6 August 1861 § 1.  
12 Stat. 317.

Salary and  
allowances.

3. The accounts of said attorney, from and after the fourth day of April last, shall be adjusted and settled in the same manner as the same would have been adjusted and settled had this act been in operation on and after that day.

Ibid. § 2.  
Settlement of  
accounts.

## III. COLLECTION DISTRICTS.

4. That all that part of the state of New Jersey which lies north and east of Elizabethtown and Staten Island, comprising the counties of Hudson and Bergen, be and the same is hereby annexed to the collection district of New York; that an assistant collector, to be appointed by the president of the United States, shall reside at Jersey City, who shall have power to enter and clear vessels in like manner as the collector of New York is authorized by law to do, but such assistant collector shall, nevertheless, act in conformity to such instructions and regulations as he shall from time to time receive from the collector of New York; and that the said assistant collector shall receive for his annual salary two thousand dollars in full for all services to be by him performed, and in lieu of commissions and fees.

21 Feb. 1863 § 1.  
12 Stat. 658.

Part of New Jersey added to collection district of New York.

Assistant collector at Jersey City.

5. An assistant collector of customs shall be appointed at the port of New York, in the mode prescribed by law for the appointment of deputy collectors, at an annual compensation of five thousand dollars, who shall perform such duties and exercise such powers now devolved on the collector as may be assigned to him by that officer; and all the official acts of said assistant, in pursuance of such assignment, shall be as valid in law as if performed by the collector himself: *Provided*, That the collector shall be responsible for the official acts as aforesaid of said assistant, and that no additional appropriation shall be made for the payment of his compensation.

3 Mar. 1863 § 16.  
12 Stat. 753.

Assistant collector to be appointed.

6. That the district of Sackett's Harbor be and is hereby annexed to the district of Cape Vincent, and the district so annexed is hereby abolished and constituted a part of the district to which it is annexed; and that the district of Niagara is hereby extended so as to include the entire county of Niagara to the channel of Tonawanda creek; and that Lewiston, in the district of Niagara, is hereby discontinued as a port of entry, and that the port of entry for the district be and is hereby established at Suspension Bridge.

3 March 1863 § 2.  
12 Stat. 761.

District of Cape Vincent enlarged  
Niagara.  
Suspension Bridge.

7. That Plattsburg, in the district of Champlain, is hereby discontinued as a port of entry, and that the port of entry for the district be and is hereby established at Rouse's Point, at which place the collector of the district shall reside, and a deputy collector shall reside at Plattsburg; and all vessels passing through Lake Champlain, from Canada, shall hereafter be required to report to the collector of customs at Rouse's Point.

Ibid. § 3.  
Rouse's Point.

(a) Ante 699, pl. 13.

## Oaths.

[See DEPARTMENTS.]

1. Oath of public officers. Form of oath. Violation to be deemed perjury. 8. By whom administered. Penalty for violation.  
 2. Oath to be taken by masters of vessels, and persons prosecuting claims.

2 July 1862 § 1.  
12 Stat. 502.

Oath of public officers.

Form of oath.

Violation to be deemed perjury.

17 July 1862 § 1.  
12 Stat. 610.

Oath to be taken by masters of vessels, and persons prosecuting claims.

Ibid. § 2.

By whom administered.

Penalty for violation.

1. Hereafter every person elected or appointed to any office of honor or profit under the government of the United States, either in the civil, military or naval departments of the public service, excepting the president of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation: "*I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the constitution of the United States, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God;*" which said oath, so taken and signed, shall be preserved among the files of the court, house of congress or department to which the said office may appertain. And any person who shall falsely take the said oath shall be guilty of perjury, and on conviction, in addition to the penalties now prescribed for that offence, shall be deprived of his office and rendered incapable for ever after of holding any office or place under the United States.

2. The commanders of all American vessels sailing from ports in the United States to foreign ports, during the continuance of the present rebellion, and all persons prosecuting claims, either as attorney or on his own account, before any of the departments or bureaus of the United States, shall be required to take the oath of allegiance, and to support the constitution of the United States (or affirm, as the case may be), as required of persons in the civil service of the United States by the provisions of the act of congress approved August 6th 1861.(a)

3. The oath or affirmation herein provided for in the first section of this act may be taken before any justice of the peace, notary public or other person who is legally authorized to administer an oath in the state or district where the same may be administered; and any violation of such oath by any person or persons taking the same, shall subject the offender to all the pains and penalties of wilful and corrupt perjury, who shall be liable to be indicted and prosecuted to conviction for any such offence before any court having competent jurisdiction thereof.

(a) See ante 1171.

## Ohio.

1. Terms of the circuit and district courts.

### I. CIRCUIT AND DISTRICT COURTS.

21 Feb. 1863 § 1.  
12 Stat. 667.

Terms of the circuit and district courts.

1. Instead of the times now fixed by law, the circuit and district courts of the United States for the several districts in the states composing the seventh judicial circuit shall hereafter be held as follows:—Ohio. At Cleveland, for the northern district of Ohio, on the first Tuesdays in the months of January, May and September in each year. At Cincinnati, for the southern district of Ohio, on the first Tuesdays in the months of February, April and October in each year.

# Oregon.

## I. ADMISSION INTO THE UNION.

1. Oregon admitted into the Union. Boundaries.
2. Concurrent jurisdiction on rivers bounding the state. Navigable rivers to be public highways.
3. Propositions. School lands. Lands for a university. Public buildings. Salt springs. Proceeds of sales of public lands. Taxes.
4. Residue annexed to Washington.
5. Laws of the United States extended to Oregon.

## II. CIRCUIT AND DISTRICT COURTS.

6. District court established.
7. Residence and compensation of officers.
8. Mandates in pending causes.
9. Terms of the district court.
10. Salary of judge.
11. Terms of the circuit court.

## I. ADMISSION INTO THE UNION.

1. Whereas the people of Oregon having framed, ratified and adopted a constitution of state government which is republican in form, and in conformity with the constitution of the United States, and have applied for admission into the Union on an equal footing with the other states: Therefore, *Be it enacted*, That Oregon be and she is hereby received into the Union on an equal footing with the other states in all respects whatever, with the following boundaries: In order that the boundaries of the state may be known and established, it is hereby ordained and declared that the state of Oregon shall be bounded as follows, to wit: Beginning one marine league at sea due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly, at the same distance from the line of the coast, lying west and opposite the state, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia river; thence easterly, to and up the middle channel of said river, and, where it is divided by islands, up the middle of the widest channel thereof, to a point near fort Walla-Walla, where the forty-sixth parallel of north latitude crosses said river; thence east, on said parallel, to the middle of the main channel of the Shoshones or Snake river; thence up the middle of the main channel of said river, to the mouth of the Owyhee river; thence due south, to the parallel of latitude forty-two degrees north; thence west, along said parallel to the place of beginning; including jurisdiction in civil and criminal cases upon the Columbia river and Snake river, concurrently with states and territories of which those rivers form a boundary in common with this state.

14 Feb. 1859 § 1.  
11 Stat. 383.

Oregon admitted  
into the Union.

Boundaries.

2. The said state of Oregon shall have concurrent jurisdiction on the Columbia and all other rivers and waters bordering on the said state of Oregon, so far as the same shall form a common boundary to said state, and any other state or states now or hereafter to be formed or bounded by the same. And said rivers and waters, and all the navigable waters of said state, shall be common highways, and for ever free, as well to the inhabitants of said state, as to all other citizens of the United States, without any tax, duty, impost or toll therefor.

*Ibid.* § 2.

Concurrent jurisdiction on rivers  
bounding the  
state.

Navigable rivers  
to be public highways.

3. That the following propositions be and the same are hereby offered to the said people of Oregon for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said state of Oregon, to wit: First, That sections numbered sixteen and thirty-six in every township of public lands in said state, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to said state for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a state university, to be selected by the governor of said state, subject to the approval of the commissioner of the general land office; and to be appropriated and applied in such manner as the legislature of said state may prescribe for the purpose aforesaid, but for no other purpose. (a) Third, That ten entire sections of land, to be selected by the governor of said state, in legal subdivisions, shall be granted to said state, for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof. Fourth, That all salt springs within said state, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said state for its use, the same to be selected by the governor thereof within one year after the admission of said state, (b) and when so selected, to be used or disposed of on such terms, conditions and regulations as the legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said state. Fifth, That five per centum of the net proceeds of sales of all public lands lying within said state which shall be sold by congress after the admission of said state into the Union, after deducting all

*Ibid.* § 3.

Propositions.  
School lands.

Lands for a university.

Public buildings.

Salt springs.

Proceeds of sales  
of public lands

(a) See act 2 March 1861. 12 Stat. 208.

(b) Extended for three years, by act 17 December 1860. 12 Stat. 124.

14 February 1859. the expenses incident to the same, shall be paid to said state for the purpose of making public roads and internal improvements, as the legislature shall direct: *Provided*, That the foregoing propositions, hereinbefore offered, are on the condition that the people of Oregon shall provide by an ordinance, irrevocable without the consent of the United States, that said state shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations congress may find necessary for securing the title in said soil to *bonâ fide* purchasers thereof; and that in no case shall non-resident proprietors be taxed higher than residents. Sixth, And that the said state shall never tax the lands or the property of the United States in said state: *Provided, however*, That in case any of the lands herein granted to the state of Oregon have heretofore been confirmed to the territory of Oregon for the purposes specified in this act, the amount so confirmed shall be deducted from the quantity specified in this act.

Taxes.

*Ibid.* § 5.

3 March 1859 § 1.  
11 Stat. 457.

4. Until congress shall otherwise direct, the residue of the territory of Oregon shall be, and is hereby, incorporated into and made a part of the territory of Washington.

5. All the laws of the United States which are not locally inapplicable shall have the same force and effect within the said state of Oregon as elsewhere in the United States.

## II. CIRCUIT AND DISTRICT COURTS.

3 March 1859 § 2.  
11 Stat. 439.  
District court  
established.

6. The said state is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Iowa, shall be established; and the judge of the said district court shall hold two regular terms of the said court, annually [at the seat of government of the said state, to commence on the second Monday of April and September in each year.](a)

*Ibid.* § 3.

Residence and  
compensation of  
officers.

7. The judge, attorney and marshal of the United States for the said district of Oregon, shall reside therein; and the annual salary of the said judge shall be two thousand five hundred dollars; and the marshal and district attorney for said district shall be entitled to the same compensation and fees as the marshal and attorney for the district of Iowa.

*Ibid.* § 4.

Mandates in  
pending causes.

8. In all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States, upon any record from the supreme court of Oregon territory, the mandate of execution or order of further proceedings shall be directed by the supreme court of the United States to the district court of the United States for the district of Oregon, or to the supreme court of the state of Oregon, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Oregon territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

22 June 1860 § 1.  
12 Stat. 85.

Terms.

9. The two regular terms of the district court of the United States for the district of Oregon shall hereafter be held at Portland, in said district, commencing on the second Monday in May and September in each year.

*Ibid.* § 2.

Salary of judge.

3 March 1862 § 4.  
12 Stat. 794.

Terms of circuit  
court.

10. The salary of the district judge of the United States for said district shall be three thousand dollars.

11. The circuit court for the state of Oregon shall be held at Portland, in said state, at the same times now fixed by law for holding terms of the district court for the district of Oregon at that place.

(a) See *infra* §.

## Passengers.

The owners of a vessel are liable for the torts of the master, when they involve a breach of the passenger contract, and are done while acting strictly within the scope of his employment. *McGuire v. The Golden Gate*, 1 McAllister 104. And see *Kranekopp v. Ames*, 7 Penn. L. J. 77.

# Patents.

## I. PATENT OFFICE.

1. Salaries of commissioner, chief clerk and librarian.
2. Models of rejected applications to be restored, or otherwise disposed of. When models may be dispensed with.
3. Repeal of act 3 March 1867 § 10.
4. Appointment of additional examiners. Expenses limited to receipts.
5. Commissioner may require papers to be printed. His jurisdiction over patent agents.
6. Fees.
7. Descriptions and claims to be printed. Expenses.

## II. APPLICATIONS FOR PATENTS.

8. Commissioner to establish rules for taking depositions, &c. Subpoenas. Process of contempt. Pay of witnesses. Not to be required to disclose their own secret inventions. Fees and expenses to be tendered.

9. Examiners-in-chief. Their duties. Appeals to the commissioner.
10. Appeals to examiners in chief regulated.
11. Fees not to be refunded. Fee for caveat not to be credited to applicant. Notice to caveators, how computed. Improvements not to be included in reissued patents.
12. Patents may be issued for original designs. Term of such patent. Fees. Extensions.
13. Applications not completed within two years to be considered abandoned. Exceptions.
14. Duration of patents. Extensions prohibited.
15. Renewal of oath dispensed with.
16. To be void on non-payment of patent fee within six months.

## III. MISCELLANEOUS PROVISIONS.

17. How notice of patent to be given.
18. Certified copies of letters patent to be evidence.

## I. PATENT OFFICE.

1. The salary of the commissioner of patents, from and after the passage of this act, shall be four thousand five hundred dollars per annum; and the salary of the chief clerk of the patent office shall be two thousand five hundred dollars; and the salary of the librarian of the patent office shall be eighteen hundred dollars.

2 March 1861 § 4.  
12 Stat. 247.

2. The commissioner of patents is authorized to restore to the respective applicants, or when not removed by them, to otherwise dispose of, such of the models belonging to rejected applications as he shall not think necessary to be preserved. The same authority is also given in relation to all models accompanying applications for designs. He is further authorized to dispense in future with models of designs when the design can be sufficiently represented by a drawing.

Salaries of commissioner, chief clerk and librarian.

Ibid. § 5.

Models of rejected applications to be restored, or otherwise disposed of.

3. The tenth section of the act approved the 3d of March 1857, (a) authorizing the appointment of agents for the transportation of models and specimens to the patent office, is hereby repealed.

Ibid. § 6.

4. The commissioner is further authorized from time to time to appoint, in the manner already provided for by law, such an additional number of principal examiners, first assistant examiners, and second assistant examiners, as may be required to transact the current business of the office with dispatch; provided the whole number of additional examiners shall not exceed four of each class, and that the total annual expenses of the patent office shall not exceed the annual receipts.

Ibid. § 7.

Appointment of additional examiners.

Expenses limited to receipts.

5. The commissioner may require all papers filed in the patent office, if not correctly, legibly and clearly written, to be printed at the cost of the parties filing such papers. And for gross misconduct he may refuse to recognise any person as a patent agent, either generally or in any particular case; but the reasons of the commissioner for such refusal shall be duly recorded, and subject to the approval of the president of the United States.

Ibid. § 8.

Commissioner may require papers to be printed  
His jurisdiction over patent agents.

6. All laws now in force fixing the rates of the patent office fees to be paid, and discriminating between the inhabitants of the United States and those of other countries, which shall not discriminate against the inhabitants of the United States, are hereby repealed, and in their stead the following rates are established:

Ibid. § 10

Fees.

On filing each caveat, ten dollars.

On filing each original application for a patent, except for a design, fifteen dollars.

On issuing each original patent, twenty dollars.

On every appeal from the examiners-in-chief to the commissioner, twenty dollars.

On every application for the reissue of a patent, thirty dollars.

On every application for the extension of a patent, fifty dollars; and fifty dollars in addition, on the granting of every extension.

On filing each disclaimer, ten dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney and other papers of three hundred words or under, one dollar.

For recording every assignment, and other papers over three hundred and under one thousand words, two dollars.

For recording every assignment or other writing, if over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making the same.

7. That the commissioner of patents be and he is hereby authorized to print, or in his discretion to cause to be printed, ten copies of the description and claims of all

Ibid. § 14.



2 March 1861. patents which may hereafter be granted, and ten copies of the drawings of the same, when drawings shall accompany the patents: *Provided*, The cost of printing the text of said descriptions and claims shall not exceed, exclusive of stationery, the sum of two cents per hundred words for each of said copies, and the cost of the drawing shall not exceed fifty cents per copy; one copy of the above number shall be printed on parchment to be affixed to the letters patent; the work shall be under the direction and subject to the approval of the commissioner of patents, and the expense of the said copies shall be paid for out of the patent fund.

## II. APPLICATIONS FOR PATENTS.

2 March 1861 § 1. 8. The commissioner of patents may establish rules for taking affidavits and depositions required in cases pending in the patent office, and such affidavits and depositions may be taken before any justice of the peace, or other officer authorized by law to take depositions to be used in the courts of the United States, or in the state courts of any state where such officer shall reside; and in any contested case pending in the patent office it shall be lawful for the clerk of any court of the United States for any district or territory, and he is hereby required, upon the application of any party to such contested case, or the agent or attorney of such party, to issue subpoenas for any witnesses residing or being within the said district or territory, commanding such witnesses to appear and testify before any justice of the peace, or other officer as aforesaid, residing within the said district or territory, at any time and place in the subpoena to be stated; and if any witness, after being duly served with such subpoena, shall refuse or neglect to appear, or, after appearing, shall refuse to testify (not being privileged from giving testimony), such refusal or neglect being proved to the satisfaction of any judge of the court whose clerk shall have issued such subpoena, said judge may thereupon proceed to enforce obedience to the process, or to punish the disobedience, in like manner as any court of the United States may do in case of disobedience to process of subpoena *ad testificandum* issued by such court; and witnesses in such cases shall be allowed the same compensation as is allowed to witnesses attending the courts of the United States: *Provided*, That no witnesses shall be required to attend at any place more than forty miles from the place where the subpoena shall be served upon him to give a deposition under this law: *Provided also*, That no witness shall be deemed guilty of contempt for refusing to disclose any secret invention made or owned by him: *And provided further*, That no witness shall be deemed guilty of contempt for disobeying any subpoena directed to him by virtue of this act, unless his fees for going to, returning from and one day's attendance at the place of examination shall be paid or tendered to him at the time of the service of the subpoena.

Ibid. § 2. 9. For the purpose of securing greater uniformity of action in the grant and refusal of letters patent, there shall be appointed by the president, by and with the advice and consent of the senate, three examiners-in-chief, at an annual salary of three thousand dollars each, to be composed of persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the applicant for that purpose being filed, to revise and determine upon the validity of decisions made by examiners when adverse to the grant of letters patent; and also to revise and determine in like manner upon the validity of the decisions of examiners in interference cases; and when required by the commissioner in applications for the extension of patents; and to perform such other duties as may be assigned to them by the commissioner. From their decisions appeals may be taken to the commissioner of patents in person, upon payment of the fee hereinafter prescribed. The said examiners-in-chief shall be governed in their action by the rules to be prescribed by the commissioner of patents.

Ibid. § 3. 10. No appeal shall be allowed to the examiners-in-chief from the decisions of the primary examiners, except in interference cases, until after the application shall have been twice rejected; and the second examination of the application by the primary examiner shall not be had, until the applicant, in view of the references given on the first rejection, shall have renewed the oath of invention, as provided for in the 7th section of the act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4th 1836.(a)

Ibid. § 9. 11. No money paid as a fee, on any application for a patent after the passage of this act, shall be withdrawn or refunded; nor shall the fee paid on filing a caveat be considered as part of the sum required to be paid on filing a subsequent application for a patent for the same invention. The three months' notice given to any caveator, in pursuance of the requirements of the 12th section of the act of July 4th 1836,(b) shall be computed from the day on which such notice is deposited in the post office at Washington, with the regular time for the transmission of the same added thereto, which

(a) Ante 727, pl. 25. But see *infra* 15.

(b) Ante 730, pl. 42.

time shall be indorsed on the notice: and so much of the 13th section of the act of congress approved July 4th 1836,(a) as authorizes the annexing to letters patent of the description and specification of additional improvements is hereby repealed, and in all cases where additional improvements would now be admissible, independent patents must be applied for.

2 March 1861.

Improvements not to be included in reissue of patents.

Ibid. § 11.

Patents may be issued for original designs.

12. Any citizen or citizens, or alien or aliens, having resided one year in the United States, and taken the oath of his or their intention to become a citizen or citizens, who by his, her or their own industry, genius, efforts and expense, may have invented or produced any new and original design, or a manufacture, whether of metal or other material or materials, and original design for a bust, statue or bas relief, or composition in alto or basso relievo, or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern, or print, or picture, to be either worked into or worked on, or printed, or painted, or cast, or otherwise fixed on any article of manufacture, or any new and original shape or configuration of any article of manufacture, not known or used by others before his, her or their invention or production thereof, and prior to the time of his, her or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use and sell and vend the same, or copies of the same to others, by them to be made, used and sold, may make application in writing to the commissioner of patents, expressing such desire; and the commissioner, on due proceedings had, may grant a patent therefor, as in the case now of application for a patent, for the term of three and one-half years, or for the term of seven years, or for the term of fourteen years, as the said applicant may elect in his application: *Provided*, That the fee to be paid in such application shall be, for the term of three years and six months, ten dollars, for seven years, fifteen dollars, and for fourteen years, thirty dollars: *And provided*, That the patentees of designs under this act shall be entitled to the extension of their respective patents for the term of seven years, from the day on which said patents shall expire, upon the same terms and restrictions as are now provided for the extension of letters patent.

Term of patent.

Fees.

Extensions.

13. All applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the commissioner of patents that such delay was unavoidable; and all applications now pending shall be treated as if filed after the passage of this act, and all applications for the extension of patents shall be filed at least ninety days before the expiration thereof; and notice of the day set for the hearing of the case shall be published, as now required by law, for at least sixty days.

Ibid. § 12.

Applications not completed within two years to be considered abandoned.

Exceptions.

Notice of applications for extensions.

Ibid. § 16.

14. All patents hereafter granted shall remain in force for the term of seventeen years from the date of issue; and all extension of such patents is hereby prohibited.

15. That so much of section seven of the act entitled "An act to promote the progress of the useful arts," approved July 4th 1836, as requires a renewal of the oath, be and the same is hereby repealed.(b)

3 March 1863 § 1.  
12 Stat. 796.

Renewal of oath dispensed with.

Ibid. § 3.

Date of patents.

To be void on non-payment of patent fee within six months.

16. Every patent shall be dated as of a day not later than six months after the time at which it was passed and allowed, and notice thereof sent to the applicant or his agent. And if the final fee for such patent be not paid within the said six months, the patent shall be withheld, and the invention therein described shall become public property, as against the applicant therefor: *Provided*, That in all cases where patents have been allowed previous to the passage of this act, the said six months shall be reckoned from the date of such passage.

### III. MISCELLANEOUS PROVISIONS.

17. In all cases where an article is made or vended by any person under the protection of letters patent, it shall be the duty of such person to give sufficient notice to the public that said article is so patented, either by fixing thereon the word patented, together with the day and year the patent was granted; or when, from the character of the article patented that may be impracticable, by enveloping one or more of the said articles, and affixing a label to the package, or otherwise attaching thereto a label on which the notice with the date is printed; on failure of which, in any suit for the infringement of letters patent by the party failing so to mark the article the right to which is infringed upon, no damage shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued after such notice to make or vend the article patented. And the 6th section of the act entitled "An act in addition to an act to promote the progress of the useful arts," and so forth, approved the 29th day of August 1842,(c) be and the same is hereby repealed.

2 March 1861 § 13.  
12 Stat. 249.

How notice of patent to be given.

Repeal.

(a) Ante 731, pl. 48.

(b) Ante 727, pl. 26.

(c) Ante 736, pl. 58.

2 March 1861 § 15.

Certified copies  
of letters patent  
to be evidence.

18. Printed copies of the letters patent of the United States, with the seal of the patent office affixed thereto, and certified and signed by the commissioner of patents, shall be legal evidence of the contents of said letters patent in all cases.

A patent obtained by an alien, upon an oath, ignorantly or inadvertently made, that he is a citizen of the United States, is not voidable only, but absolutely void. The true representation of citizenship is a condition precedent to the issuing of the patent. *Min's Assignee v. Adams*, 12 Leg. Int. 4.

Such a mistake does not fall within § 13 of the act 4 July 1836 (731, pl. 43), so as to authorize a surrender of the old patent and the reissue of a new one. *Ibid.*

An interlocutory injunction will not be granted, when the defendant has letters patent for the same invention as the plaintiff's, which are *prima facie* valid. *Sargent v. Carter*, 21 Law Rep. 651.

It is the duty of an inventor to describe in his specification, each substantially different modification of his invention that he has made. *Ibid.*

The American assignee of an alien inventor, who obtains a patent in his own name, is not within the alien clause of § 15 of the act 4 July 1836 (731, pl. 46). That clause applies only to an alien patentee. *Tatham v. Lowber*, 2 Blatch. 49.

It is not necessary for an alien patentee to prove that he endeavored to sell his invention; but those who seek to defeat the patent, must show that he neglected or refused to sell it for reasonable prices, when application was made to him to purchase. *Ibid.*

An interest in a grant of the future term of a patent, not *in esse*, is not the subject of assignment, either at common law, or under the statute, and when stipulated for, rests only in contract. And the right of a *bond fide* purchaser, without notice, will prevail against such contract. *Gibson v. Cook*, 2 Blatch. 114.

Within the three months limited for recording the assignment of a patent, an unrecorded assignment will prevail; but it must be an assignment in writing that may be recorded. *Ibid.*

When one part of a combination is new, the combination is new, though the other parts of it may be old. *Hall v. Wiles*, 2 Blatch. 194.

A disclaimer is only necessary, when the thing claimed without right, is a material and substantial part of the thing patented. *Ibid.*

Whether there has been unreasonable delay in entering a disclaimer, is a question that goes to the right of action. *Ibid.*

Novelty and utility in an improvement, are the only conditions requisite to the granting of a patent. *McCormick v. Seymour*, 2 Blatch. 240.

The act 3 March 1839 § 7 (728, pl. 32), virtually extends the patentee's privilege to sixteen years instead of fourteen. *Ibid.*

Where a party has discovered a new application of property in nature, never before known or in use, by which he has produced a new and useful result, the discovery is the subject of a patent, independently of any peculiar or new arrangement of machinery for the purpose of applying the new property. *Foot v. Silsby*, 2 Blatch. 260.

Where the commissioner of patents has jurisdiction over an application for an extension of a patent, his decision is conclusive as to the regularity of the proceedings on the extension; except, perhaps, in case of fraud. *Colt v. Young*, 2 Blatch. 471.

An inventor, who forbears to take out a patent, until he has perfected his invention, or tested its value by experiments, is protected against one who has, in the mean time, surreptitiously obtained a knowledge of the invention. *Kendall v. Winsor*, 21 How. 322.

A patent is not avoided by the mere fact that the invention or discovery patented had been known or used in a foreign country before the discovery of the patentee. *Bartholomew v. Sawyer*, 16 Leg. Int. 316.

No description, in any printed publication, of the thing patented, will avoid the patent, unless such publication was anterior to the discovery of the patentee; it is not sufficient that it was anterior to the application for the patent. *Ibid.*

Where an inventor has made application for a patent, the delay afterwards interposed, either by the mistakes of public

officers, or the dilatory proceedings of courts, if gross negligence cannot be imputed to the applicant, will not affect his rights. *Adams v. Jones*, 7 Pittsburgh Leg. J. 161.

If an inventor claim two distinct improvements in one machine, he may apply for them jointly, and have a single patent for them both. *Ibid.*

The clearness the law requires in a specification is such as will distinguish the thing patented from all others previously known, and which will enable a person skilled in the art of which it is a branch, to construct the thing patented. *Teese v. Phelps*, 1 McAllister 48.

The production of the patent is *prima facie* evidence of novelty. *Ibid.*

If the idea involved in the patented article has occurred to others, but that idea has not been embodied in a practical form, it will not disprove novelty. *Ibid.*

If the article produced be substantially the same with the one protected, with variations in *form* only, or where a new and substantial result is not produced, it is an infringement of the original patent. But if there be invention, to whatever extent, it is sufficient. *Ibid.*

If the process require no more skill than that possessed by an ordinary mechanic, skilled in the business, there is an absence of inventive faculty, and only the exercise of mechanical skill. *Ibid.*

The assignees of a patent, though it be conveyed to them in separate undivided parts, may all join in an action on the case for its infringement. *Stein v. Goddard*, 1 McAllister 82.

An invention is not patented in a foreign country, in the sense of our patent acts, unless it is made patent and known to the world by a sufficient specification and description. *Howe v. Morton*, 23 Law Rep. 70.

The defendant in an action for the infringement of a patent right, may give the notice of special matter authorized by the act 4 July 1836 § 16 (732, pl. 46), without an order of court for that purpose; and under it, depositions previously taken, may be read in evidence. *Teese v. Huntington*, 23 How. 2.

In such an action, counsel fees are not a proper element for the consideration of the jury in the estimation of the damages. *Ibid.* *Day v. Woodworth*, 13 Blatch. 363.

Though a court of law may treble the damages in a patent suit, yet a court of equity has no power to inflict exemplary or punitive damages. *Sanders v. Logan*, 9 Am. L. R. 475.

The patentee is not required, before obtaining an injunction to restrain an infringement of his patent right, to establish his legal title in a court of law. *Ibid.*

It seems, that an injunction ought not to be granted to restrain the use of a patented article, without making compensation to the patentee; the remedy, in such case, is an action at law for damages. *Ibid.*

The use of several machines in public, for more than two years prior to the application for a patent, which, though slightly varying in form and arrangement, are yet substantially the same as the one afterwards patented, cannot be alleged to have been experimental, so as to avoid the legal consequences of such prior use. *Ibid.*

The patent law (732, pl. 46) does not require the defendant to give notice of the time when any person may have possessed the knowledge or use of the invention in question. *Phillips v. Page*, 24 How. 164.

No rights can be asserted under a patent which has been surrendered: it is a legal extinction of it. *Moffitt v. Carr*, 1 Black 273.

The use of ether in surgical operations, being merely the discovery of a more perfect effect of the action of well known agents, operating, by well known means, upon well known subjects, is not patentable. *Morton v. The New York Eye Infirmary*, 11 Am. L. R. 672.

## Pensions.

1. Widows' pensions to continue during life. Children's, until 16 years of age. In case of death or marriage of widow, to be paid to children. Rate of pensions.

2. How payable.

3. Evidence on application for invalid pension. Exceptions.

4. No pension to be paid to rebels or their abettors.

5. Names of disloyal persons to be stricken from the pension rolls.

6. Pensions not to be allowed to children of revolutionary soldiers, unless claim established in his lifetime, &c.

7. Pensions to be granted to invalid soldiers, &c. Military pensions. Naval pensions.

8. Pensions to widows and children.

9. Pensions to mothers.

10. Pensions to orphan sisters. No pensions to be paid to disloyal persons.

11. When pensions to commence.

12. Fees of pension agents.

13. Penalty for demanding greater compensation.

14. Surgeons to be appointed to examine invalids.

15. Printed instructions, &c., to be furnished without charge.

16. Bounty and pensions to sailors, &c., not regularly mustered into the service.

17. Pensions to widows and heirs of such persons.

18. Special agent to detect frauds, to be appointed.

19. Pension law extended to masters of gunboats, their widows and heirs.

20. Compensation of pension agents.

1. That all those surviving widows and minor children who have been or may be granted and allowed five years' half-pay under the provisions of any law or laws of the United States, be and they are hereby granted a continuance of such half-pay, under the following terms and limitations, viz.: to such widows during life, and to such child or children, where there is no widow, whilst under the age of sixteen years; to commence from the expiration of the half-pay provided for by the first section of the act entitled "An act to continue half-pay to certain widows and orphans," approved February 3d 1853: (a) *Provided, however*, That in case of the marriage or death of any such widow, the half-pay shall go to the child or children of the deceased officer or soldier whilst under the age of sixteen years; and, in like manner, the child or children of such deceased officer or soldier, when there is no widow, shall be paid no longer than while there are children or a child under the age aforesaid: *And provided further*, That the half-pay of such widows and orphans shall be half the monthly pay of the officers, non-commissioned officers, musicians and privates of the infantry of the regular army of the United States, and no more, and that no greater sum shall be allowed to any such widow or minor children than the half-pay of a lieutenant-colonel: *And provided also*, That this act shall not be construed to apply to or embrace the case of any person or persons now receiving a pension for life; and, further, that wherever half-pay shall have been granted by any special act of congress, and is renewed or continued under the provisions of this act, the same shall commence from the date hereof.

2. The provisions [pensions] renewed and continued by this act shall be payable out of any money in the treasury not otherwise appropriated.

3. In all cases of application for the payment of pensions to invalids under the several laws of congress granting pensions to invalids, the affidavit of two surgeons or physicians, whose credibility as such shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability for which the pension was originally granted (describing it), and the rate of such disability at the time of making the affidavit, shall accompany the application of the first payment, which shall fall due upon a day in the fiscal year for which provision is made herein, to be declared by the secretary of the interior, and at the end of every two years thereafter; and if in a case of continued disability it shall be stated at a rate below that for which the pension was originally granted, the applicant shall only be paid at the rate stated in the affidavit: *Provided*, That where the pension shall have been originally granted for a total disability, in consequence of the loss of a limb, or other cause which cannot, either in whole or in part, be removed, the above affidavit shall not be necessary to entitle the applicant to payment.

4. No pension shall be paid under this act (b) to any person who has been engaged in the present rebellion against the government of the United States, or who has in any way given aid and comfort to those engaged in the rebellion.

5. That the secretary of the interior be and he is hereby authorized and directed to strike from the pension rolls the names of all such persons as have or may hereafter take up arms against the government of the United States, or who have in any manner encouraged the rebels or manifested a sympathy with their cause.

6. No claim for a pension, or for an increase of pension, shall be allowed in favor of the children or other descendants of any person who served in the war of the revolution, or of the widow of such person, when such person or his widow died without having established a claim to a pension.

7. If any officer, non-commissioned officer, musician or private of the army, including regulars, volunteers and militia, or any officer, warrant or petty officer, musician, sea-

3 June 1853 § 1.  
11 Stat. 346.

Widows' pensions to continue during life.

Children's, until 16 years of age.

In case of death or marriage of widow, to be paid to children.

Rate of pensions.

*Ibid.* § 2.

How payable.

3 March 1859 § 2.  
11 Stat. 489.

Evidence on application for invalid pension.

Exceptions.

8 Jan. 1862 § 1.  
12 Stat. 332.

4 Feb. 1862 § 1.  
12 Stat. 537.

Names of disloyal persons to be stricken from the pension rolls.

2 April 1862 § 1.  
12 Stat. 376.

14 July 1862 § 1.  
12 Stat. 566.

(a) Ante 748, pl. 69; 749, pl. 76.

(b) Appropriation act for 1862-3.

14 July 1862.

Pensions to be  
granted to in-  
valid soldiers, &c.Military pen-  
sions.

Naval pensions.

man, ordinary seaman, flotilla-man, marine, clerk, landsman, pilot or other person in the navy or marine corps, has been, since the 4th day of March 1861, or shall hereafter be, disabled by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, he shall, upon making due proof of the fact according to such forms and regulations as are or may be provided by or in pursuance of law, be placed upon the list of invalid pensions of the United States, and be entitled to receive, for the highest rate of disability, such pension as is hereinafter provided in such cases, and for an inferior disability an amount proportionate to the highest disability, to commence as hereinafter provided, and continue during the existence of such disability. The pension for a total disability for officers, non-commissioned officers, musicians and privates employed in the military service of the United States, whether regulars, volunteers or militia, and in the marine corps, shall be as follows, viz.: Lieutenant-colonel, and all officers of a higher rank, thirty dollars per month; major, twenty-five dollars per month; captain, twenty dollars per month; first lieutenant, seventeen dollars per month; second lieutenant, fifteen dollars per month; and non-commissioned officers, musicians and privates, eight dollars per month. The pension for total disability for officers, warrant or petty officers, and others employed in the naval service of the United States, shall be as follows, viz.: Captain, commander, surgeon, paymaster and chief engineer, respectively, ranking with commander by law, lieutenant commanding and master commanding, thirty dollars per month; lieutenant, surgeon, paymaster and chief engineer, respectively, ranking with lieutenant by law and passed assistant surgeon, twenty-five dollars per month; professor of mathematics, master, assistant surgeon, assistant paymaster and chaplain, twenty dollars per month; first assistant engineers and pilots, fifteen dollars per month; passed midshipman, midshipman, captains' and paymasters' clerk, second and third assistant engineer, masters' mate and all warrant officers, ten dollars per month; all petty officers, and all other persons before named employed in the naval service, eight dollars per month; and all commissioned officers, of either service, shall receive such and only such pension as is herein provided for the rank in which they hold commissions.

Ibid. § 2.

Pensions to wid-  
ows and children.

8. If any officer or other person named in the first section of this act has died since the fourth day of March 1861, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, his widow, or, if there be no widow, his child or children under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to had he been totally disabled, to commence from the death of the husband or father, and to continue to the widow during her widowhood, or to the child or children until they severally attain the age of sixteen years, and no longer.

Ibid. § 3.

Pensions to mo-  
thers.

9. Where any officer or other person named in the first section of this act shall have died subsequently to the fourth day of March 1861, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, and has not left or shall not leave a widow nor legitimate child, but has left or shall leave a mother who was dependent upon him for support, in whole or in part, (a) the mother shall be entitled to receive the same pension as such officer or other person would have been entitled to had he been totally disabled; which pension shall commence from the death of the officer or other person dying as aforesaid: *Provided, however,* That if such mother shall herself be in receipt of a pension as a widow, in virtue of the provisions of the second section of this act, in that case no pension or allowance shall be granted to her on account of her son, unless she gives up the other pension or allowance: *And provided further,* That the pension given to a mother on account of her son shall terminate on her re-marriage: *And provided further,* That nothing herein shall be so construed as to entitle the mother of an officer or other person dying as aforesaid to more than one pension at the same time under the provisions of this act.

Ibid. § 4.

Pensions to or-  
phan sisters.

10. Where any officer or other person named in the first section of this act shall have died subsequently to the fourth day of March 1861, or shall hereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, and has not left or shall not leave a widow, nor legitimate child nor mother, but has left or may leave an orphan sister or sisters under sixteen years of age, who were dependent upon him for support, in whole or in part, such sister or sisters shall be entitled to receive the same pension as such officer or other person would have been entitled to had he been totally disabled; which pension to said orphan shall commence from the death of the officer or other person dying as aforesaid, and shall continue to the said orphans until they severally arrive at the age of sixteen years, and no

(a) The mother of a deceased soldier is entitled to a pension under this section, whether she be married or a widow, provided she was dependent upon him for support, either in whole or in part. 10 Pittsburgh Leg. J. 66.

longer: *Provided, however,* That nothing herein shall be so construed as to entitle said orphans to more than one pension at the same time, under the provisions of this act: *And provided further,* That no moneys shall be paid to the widow or children, or any heirs of any deceased soldier on account of bounty, back pay or pension, who have in any way been engaged in or who have aided or abetted the existing rebellion in the United States; but the right of such disloyal widow or children, heir or heirs of such soldier, shall be vested in the loyal heir or heirs of the deceased, if any there be.

14 July 1862.

No pensions to be paid to disloyal persons.

11. Pensions which may be granted, in pursuance of the provisions of this act, to persons who may have been or shall be employed in the military or naval service of the United States, shall commence on the day of the discharge of such persons in all cases in which the application for such provisions [pensions] is filed within one year after the date of said discharge; and in cases in which the application is not filed during said year, pensions granted to persons employed as aforesaid shall commence on the day of the filing of the application.

Ibid. § 5.

When pensions to commence.

12. The fees of agents and attorneys for making out and causing to be executed the papers necessary to establish a claim for a pension, bounty and other allowance, before the pension office under this act, shall not exceed the following rates: for making out and causing to be duly executed a declaration by the applicant, with the necessary affidavits, and forwarding the same to the pension office, with the requisite correspondence, five dollars. In cases wherein additional testimony is required by the commissioner of pensions for each affidavit so required and executed and forwarded (except the affidavits of surgeons, for which such agents and attorneys shall not be entitled to any fees), one dollar and fifty cents.

Ibid. § 6.

Fees of pension agents.

13. Any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act than is prescribed in the preceding section of this act, or who shall contract or agree to prosecute any claim for a pension, bounty or other allowance under this act, on the condition that he shall receive a per centum upon, or any portion of the amount of such claim, or who shall wrongfully withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall, for every such offence, be fined not exceeding three hundred dollars, or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offence.

Ibid. § 7.

Penalty for demanding greater compensation.

14. That the commissioner of pensions be and he is hereby empowered to appoint, at his discretion, civil surgeons to make the biennial examinations of pensioners which are or may be required to be made by law, and to examine applicants for invalid pensions, where he shall deem an examination by a surgeon to be appointed by him necessary; and the fees for each of such examinations, and the requisite certificate thereof, shall be one dollar and fifty cents, which fees shall be paid to the surgeon by the person examined, for which he shall take a receipt, and forward the same to the pension office; and upon the allowance of the claim of the person examined, the commissioner of pensions shall furnish to such person an order on the pension agent of his state for the amount of the surgeon's fees.

Ibid. § 8.

Surgeons to be appointed to examine invalids.

15. The commissioner of pensions, on application made to him in person or by letter by any claimants or applicants for pension, bounty or other allowance required by law to be adjusted and paid by the pension office, shall furnish such claimants, free of all expense or charge to them, all such printed instructions and forms as may be necessary in establishing and obtaining said claim; and in case such claim is prosecuted by an agent or attorney of such claimant or applicant, on the issue of a certificate of pension, or the granting of a bounty or allowance, the commissioner of pensions shall forthwith notify the applicant or claimant that such certificate has been issued or allowance made, and the amount thereof.

Ibid. § 9.

Printed instructions to be furnished without charge.

16. The pilots, engineers, sailors and crews upon the gunboats and war vessels of the United States, who have not been regularly mustered into the service of the United States, shall be entitled to the same bounty allowed to persons of corresponding rank in the naval service, provided they continue in service to the close of the present war; and all persons serving as aforesaid, who have been or may be wounded or incapacitated for service, shall be entitled to receive for such disability the pension allowed by the provisions of this act, to those of like rank, and each and every such person shall receive pay according to corresponding rank in the naval service: *Provided,* That no person receiving pension or bounty under the provisions of this act shall receive either pension or bounty for any other service in the present war.

Ibid. § 10.

Bounty and pension to sailors &amp;c. not regularly mustered into the service.

17. The widows and heirs of all persons described in the last preceding section who have been or may be employed as aforesaid, or who have been or may be killed in battle, or of those who have died or shall die of wounds received while so employed, shall be paid

Ibid. § 11.

Pensions to widows and heirs of such persons

14 July 1862.

Ibid. § 12.

Special agent to detect frauds to be appointed.

16 July 1862 § 1.  
12 Stat. 625.

Extended to masters of gunboats.

17 July 1862 § 1.  
12 Stat. 626.

Compensation of pension agents.

the bounty and pension allowed by the provisions of this act, according to rank, as provided in the last preceding section.

18. That the secretary of the interior be and he is hereby authorized to appoint a special agent for the pension office, to assist in the detection of frauds against the pension laws, to cause persons committing such frauds to be prosecuted, and to discharge such other duties as said secretary may require him to perform; which said agent shall receive for his services an annual salary of twelve hundred dollars, and his actual travelling expenses occurred in the discharge of his duties shall be paid by the government.

19. The masters serving on board of gunboats employed in the service of the United States shall be entitled to all the benefits, including bounty and pension, provided for in an act entitled "An act to grant pensions," passed during the present session of congress, and the widows, mothers and heirs of such officers shall be entitled to all the benefits of said act.

20. Agents for paying pensions shall receive two per centum on all disbursements made by them to pensioners of the United States: *Provided*, That the aggregate compensation to any one agent, paying both army and navy pensions, shall not exceed two thousand dollars per annum.

## Post Office.

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### I. POST OFFICE DEPARTMENT.

15 June 1860 § 1.  
12 Stat. 38.27 Feb. 1861 § 5.  
12 Stat. 166.

1. Not more than sixteen hundred dollars per annum shall be allowed to any special agent of the post office department as compensation for his services.

2. The joint resolution of congress of 18th August 1856, which provides that there shall be "one principal messenger in each of the bureaus of the several executive

departments, at an annual salary of eight hundred and forty dollars each," shall be understood to embrace within its true scope and meaning the offices of the three assistant postmasters-general, entitling each to a messenger at an annual salary of eight hundred and forty dollars.

27 Feb. 1861.

Messengers to assistant postmasters-general.

3. The time fixed for the limitation of suits against the sureties of postmasters by the third section of the act of congress, entitled "An act to reduce into one the several acts establishing and regulating the post office department," approved March 3d 1825, (a) shall not be considered as running in any state or part thereof, the inhabitants whereof have been by proclamation of the president declared in a state of insurrection, during the time the insurrection shall continue.

11 July 1862 § 1.  
12 Stat. 530.

Limitation acts not to apply to states in rebellion.

4. Any oath required by law to be taken by any contractor, postmaster, clerk or employee of the post office department, in any part of the United States mentioned in the preceding section, may be taken before any officer, civil or military, holding a commission under the United States; and such officer is hereby authorized to administer and certify such oath.

Ibid. § 2.

Who may administer oaths.

5. The postmaster-general shall have power to appoint and commission all postmasters whose salary or compensation for the preceding fiscal year shall at the time of such appointment have been ascertained to be less than one thousand dollars per year; and in all other cases the president shall appoint. The person appointed postmaster shall reside within the delivery of the office to which he shall be appointed.

3 March 1863 § 1.  
12 Stat. 701.

What postmasters to be appointed by the postmaster-general.

6. The postmaster-general, all postmasters and special agents, and all persons employed in the general post office, or in the care, custody or conveyance of the mail, hereafter appointed or employed, shall, previous to entering upon the duties assigned to them, or the execution of their trusts, and before they shall be entitled to receive any emoluments therefor, in addition to the oath of office prescribed by the act of July 2d 1862, respectively take and subscribe the following oath or affirmation before some magistrate, and cause a certificate thereof to be filed in the general post office: "*I, A. B., do swear (or affirm, as the case may be) that I will faithfully perform all the duties required of me, and abstain from everything forbidden by the laws in relation to the establishment of the post office and post roads within the United States; and that I will honestly and truly account for and pay over any moneys belonging to the said United States which may come into my possession or control; so help me God.*" Every person who shall be in any manner employed in the care, custody, conveyance or management of the mail, shall be subject to all pains, penalties and forfeitures for violating the injunctions or neglecting the duties required of him by the laws relating to the establishment of the post office and post roads, whether such persons shall have taken the oath or affirmation above prescribed or not.

Ibid. § 2.

Oaths of office.

All persons employed to be subject to the post office laws, whether sworn or not.

## II. ANNUAL REPORTS TO CONGRESS.

7. It shall be the duty of the postmaster-general to furnish to congress, in his annual report on the first Monday of December next, and of each and every year thereafter, a detailed statement of the expenditures made under the head of "miscellaneous payments."

15 June 1860 § 1.  
12 Stat. 38.

Report of miscellaneous payments.

## III. MAILS AND POST ROUTES.

8. That the postmaster-general be authorized to make such arrangements for the transmission of the great through mails between Portland and New Orleans, as will insure the most speedy and certain connection, including in the route for one of the daily mails, as many of the seaboard commercial cities as may be consistent with the greatest dispatch.

14 June 1858 § 2.  
11 Stat. 362.

Great southern mail to be expedited.

9. Maps, engravings, lithographs or photographic prints, on rollers or in paper covers, books, bound or unbound, phonographic paper, and letter envelopes, shall be deemed mailable matter, and charged with postage by the weight of the package, not in any case to exceed four pounds, [at the rate of one cent an ounce, or fraction of an ounce, to any place in the United States under fifteen hundred miles, and at the rate of two cents an ounce, or fraction of an ounce, over fifteen hundred miles, to be prepaid by postage stamps.](b)

27 Feb. 1861 § 12.  
12 Stat. 169.

Maps, engravings, books, paper, &c., to be mailable matter.

10. Cards, blank or printed, blanks in packages weighing at least eight ounces, and seeds or cuttings, in packages not exceeding eight ounces in weight, shall also be deemed mailable matter, [and charged with postage at the rate of one cent an ounce, or fraction of an ounce, to any place in the United States under fifteen hundred miles, and at the rate of two cents an ounce or fraction of an ounce, over fifteen hundred miles, to be prepaid by postage stamps.](c)

Ibid. § 13.

Cards, blanks, seeds and cuttings.

11. Whenever, in the opinion of the postmaster-general, the postal service cannot be safely continued, or the post office revenues collected, or the postal laws maintained, on

28 Feb. 1861 § 1.  
12 Stat. 177.

(a) Ante 759, pl. 2.

(b) See *infra* 57.

(c) See *infra* 57.



23 February 1861. any post route, by reason of any cause whatsoever, the postmaster-general is hereby authorized to discontinue the postal service on such route, or any part thereof, and any post offices thereon, till the same can be safely restored, and shall report his action to congress.

When mail routes may be discontinued by the postmaster-general.

2 March 1861 § 4.  
12 Stat. 206.

Penalty for setting up unauthorized post routes in cities.

12. That the provisions of the 3d section of an act entitled "An act amendatory of an act regulating the post office department," approved March 2d 1827, (a) be and the same are hereby applied to all post routes which have been or may hereafter be established in any town or city by the postmaster-general, by virtue of the 10th section of an act entitled "An act to reduce and modify the rates of postage in the United States, and for other purposes," approved February 27th 1851. (b)

#### IV. MAILS TO THE PACIFIC.

27 Feb. 1861 § 15.  
12 Stat. 169.

Daily overland mail to California

13. The postmaster-general is hereby authorized and directed to advertise for proposals for the daily transportation of the entire mail, overland, between Saint Joseph, Missouri, or some other point on the Missouri river, connected by railroad with the east, which may be selected by the contractor, and Placerville, California, over the central route, the bids to be received till the first Monday of April 1861, and the service to commence July 1st 1861, or as soon thereafter as possible, and to terminate July 1st 1865. And the postmaster-general is hereby directed to award the contract to the lowest responsible bidder furnishing ample guarantees of his ability and disposition to perform his contract: *Provided*, That the amount of his bid shall not exceed eight hundred thousand dollars per year: *Provided*, That the contractor shall supply Denver City and Great Salt Lake City at least semi-weekly without extra charge: *And provided further*, That the letter and newspaper mail shall be carried through in twenty days, and the pamphlet, magazine, periodical and public document mail in thirty-five days. But the postmaster-general may authorize the carrying of said pamphlet, magazine, periodical and public document portion of the mail by steamship route at least semi-monthly to San Francisco, if desired by the contractor, and if said service is performed at the contractor's expense: *And provided further*, That the contractor shall not be required, in addition to the letter mail, to carry more of the newspaper mail by the twenty days schedule than will make the average weight of the whole mail one thousand pounds per day; and the remainder, if any, of the newspaper mail shall be carried on the thirty-five day schedule above provided for.

2 March 1861 § 2.  
12 Stat. 206.

How dead letters to be disposed of.

14. That the 3d section of the act making provision for the postal service in California, Oregon and Washington, approved July 27th 1854, be and the same is hereby repealed; and all dead letters which may accumulate in the post offices in said states and territory, after 30th June next, shall be returned to the general post office department at Washington, under such regulations as the postmaster-general may prescribe.

*Ibid.* § 5.

Compensation of special mail agent.

*Ibid.* § 9.

Contract for overland mail to California to be modified.

15. The compensation of the special mail agent of the post office department for the Pacific coast shall be two thousand five hundred dollars per annum; such rate to take effect in virtue of this provision from the 30th day of June 1861.

16. In lieu of the daily service on the central route, provided by the act entitled "An act for the establishment of post routes," approved February 27th 1861, the postmaster-general is hereby directed to discontinue the mail service on route number 12,578 from Saint Louis and Memphis to San Francisco, California, and to modify the contract on said route, subject to the same terms and conditions only as hereinafter provided, said discontinuance to take effect on or before July 1st 1861. The contractors on said route shall be required to transport the entire letter mail six times a week on the central route, said letter mail to be carried through in twenty days' time, eight months in the year, and in twenty-three days the remaining four months of the year, from some point on the Missouri river connected with the east to Placerville, California, and also to deliver the entire mails tri-weekly to Denver City and Great Salt Lake City; said contractors shall also be required to carry the residue of all mail matter in a period not exceeding thirty-five days, with the privilege of sending the latter semi-monthly from New York to San Francisco in twenty-five days by sea, and the public documents in thirty-five days. They shall also be required, during the continuance of their contract, or until the completion of the overland telegraph, to run a pony express semi-weekly, at a schedule time of ten days, eight months, and twelve days, four months, carrying for the government, free of charge, five pounds of mail matter, with the liberty of charging the public for transportation of letters by said express not exceeding one dollar per half ounce. For the above service said contractors shall receive the sum of one million dollars per annum; the contract for such service to be thus modified before the 25th day of March next, and expire July 1st 1864.

*Ibid.* § 11.

17. Should the contractors on the route 12,578 fail to accept the above modification of

(a) Ante 707, pl. 52.

(b) Ante 799, pl. 198. See *United States v. Kimball*, 7 Law Rep.

32. *United States v. Hall*, 9 Am. L. R. 222. *United States v. Kochersperger*, 9 Am. L. R. 145.

their present contract on or before the 25th day of March, as before stated, then the postmaster-general is directed to annul said contract, and advertise for thirty days for carrying the mail in the manner herein provided, (the service to commence July 1st 1861, or as soon thereafter as possible, and to expire July 1st 1864,) and to let the same to the lowest responsible bidder, having due regard to their ability to perform the service. And the sum of one million of dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, to carry into execution the provisions of so much of this act as provides for the establishment of a daily mail on the central route: *Provided, nevertheless,* That the postmaster-general or congress shall have power, from time to time, as the same may be deemed necessary, to alter or modify the contract hereby authorized, or to put an end to the same entirely, should the public interest demand a discontinuance of the service; but in either case the contractors shall be entitled to receive all such reasonable damages as they may sustain because of any such alteration or annulment of their contract.

2 March 1861.

Powers of the postmaster-general.

18. The above provision shall not apply to a discontinuance of any routes or contracts connected with said route number 12,578; and the postmaster-general is authorized to replace any local service affected by the discontinuance of said route, now performed by the contractors on said route, by good and sufficient mail service, to take effect upon such discontinuance.

*Ibid.* § 12.

Local routes to be continued.

19. That the postmaster-general be and he is hereby authorized to establish a coast mail, not less than semi-monthly, by steam-vessels, between San Francisco and Crescent City, in the state of California, including service at the intermediate ports: *Provided,* That the sum to be paid for such service shall not exceed the sum of twenty thousand dollars per annum.

17 April 1862 § 5.  
12 Stat. 382.

Coast mail between San Francisco and Crescent City.

20. That the postmaster-general be and he is hereby authorized to contract and provide for the transportation of the United States mails on the steamships running between San Francisco, California, and Victoria, Vancouver's Island, to be delivered at Crescent City and Trinidad, California, Astoria and Portland in Oregon, as often as said steamships touch at said ports named, and at Port Angelos, Washington territory, as often as said steamships approach or pass that point going to or returning from Victoria; and that the mail service provided for by the 5th section of the act entitled "An act making appropriations for the service of the post office department during the fiscal year ending the 30th of June 1863," shall cease on the termination of the year for which it was contracted: *Provided, nevertheless,* That the service herein provided for shall not exceed the sum of twenty-four thousand dollars per annum.

9 Feb. 1863 § 5.  
12 Stat. 647.

Mails on the Pacific coast.

#### V. FOREIGN MAILS.

21. It shall not be lawful for the postmaster-general to make any steamship or other new contract for carrying the mails on the sea, for a longer period than two years, nor for any other compensation than the sea and inland postages on the mails so transported.

14 June 1856 § 4.  
11 Stat. 364.

Foreign mail-contracts, time and rates.

22. That the postmaster-general be and he is hereby authorized, to cause the mails to be transported between the United States and any foreign port or ports, by steamship, allowing and paying therefor out of any money in the treasury not otherwise appropriated, if by an American vessel, the sea and United States inland postage, and if by a foreign vessel, the sea postage only, on the mails so conveyed: [*Provided,* That the preference shall always be given to an American, over a foreign steamship, when departing from the same port, for the same destination, within three days of each other.]

*Ibid.* § 5.

Postmaster-general may contract for carrying mails by sea.

23. That the postmaster-general be and he is hereby authorized to cause the mails to be transported between the United States and any foreign port or ports, or between any port of the United States to any other port of the United States, touching at a foreign port by steamship, allowing and paying therefor, if by an American vessel, the sea and United States inland postage, and if by a foreign vessel, the sea postage only, on the mails so conveyed: [*Provided,* That the preference shall always be given to an American, over a foreign steamship, when departing from the same port, for the same destination, within three days of each other.]

15 June 1860 § 4.  
12 Stat. 39.

How foreign mails to be carried.

24. That all acts and parts of acts heretofore passed, requiring that the postmaster-general in causing the transportation of mails by steamships between the United States and any foreign port or ports, or between any ports of the United States, touching at a foreign port, shall give preference to American over foreign steamships, when departing from the same port, for the same destination, within three days of each other, be and the same are hereby repealed.

17 April 1862 § 4.  
12 Stat. 332.

Preference of American vessels abolished.

#### VI. MAIL CONTRACTS.

25. That so much of all acts and parts of acts, as require or authorize the postmaster-general to publish notice of letting contracts to carry the mails in the respective states,

12 June 1855 § 12  
11 Stat. 327.

12 June 1858.

Publication  
in Washington  
dispensed with.24 May 1858 § 1.  
11 Stat. 293.Disposition of  
quarterly re-  
turns.27 Feb. 1861 § 4.  
12 Stat. 167.Allowance for  
documents at  
Washington.2 March 1861 § 1.  
12 Stat. 204.No extra compen-  
sation for deliv-  
ery of free letters,  
&c.16 April 1862 § 1.  
12 Stat. 379.Branch offices  
may be estab-  
lished in cities.

Ibid. § 2.

3 March 1863 § 4.  
12 Stat. 702.Postmasters'  
accounts.

Ibid. § 5.

Extra compensa-  
tion.

Ibid. § 6.

Quarterly re-  
turns.Form of state-  
ment.

in newspapers published in the city of Washington, in the District of Columbia, be and the same is hereby repealed.

## VII. POST OFFICES.

26. The postmaster-general may, from time to time, in his discretion, dispose of any quarterly returns of mails sent or received, preserving the accounts current, and all vouchers accompanying such accounts, and use such portions of the proceeds thereof as may be necessary to defray the cost of separating and disposing of the same: *Provided*, That the accounts shall be preserved entire, at least two years.

27. That the 4th section of the act of congress approved 5th August 1854, (a) entitled "An act making appropriations for the service of the post office department during the fiscal year ending the 30th June 1855," be and the same is hereby continued from the 5th day of August 1858 to the 5th of August 1860.

28. No compensation shall be paid to postmasters after the 30th of June 1861, for the delivery of free letters or papers to their recipients, except to the postmaster at Washington City, District of Columbia, in pursuance of the existing law authorizing a special allowance to him for such service.

29. That the postmaster-general be authorized and directed, when in his judgment the public interest or convenience may require it, to establish one or more branch post offices to facilitate the operation of the post office in any city or place which, in the opinion of the postmaster-general, may require such additional accommodations for the convenience of the inhabitants; and it shall be the duty of the postmaster-general to prescribe the rules and regulations for the branch post office which may be established by virtue of this act. [And the postmaster-general is hereby authorized to charge one cent, in addition to the regular postage, for every letter deposited in any branch post office to be forwarded by mail from the principal office, and which shall be prepaid by stamp, and one cent for every letter delivered at such branch office, to be paid on delivery:] *Provided*, That no letter shall be sent from the principal office to such branch office for delivery contrary to the request of the party to whom the same may be addressed: *And provided*, The expense of such branch service shall not exceed the receipts on account thereof.

30. That the tenth section of an act entitled "An act to establish certain post routes, and for other purposes," approved March 3d 1847, (b) be and hereby is repealed.

31. Every postmaster shall keep a record in his office of all postage stamps and envelopes, and of all postal books, blanks or property received from his predecessor in office, or from the post office department, or from any of its agents, and also of all payments in money for postages, and all payments for box-rents, and of all other receipts on account of any part of the postal service, and of any other transactions which shall be required by the postmaster-general; and these records shall be preserved and delivered over to his successor in office, and shall be at all times subject to examination of any special agent of the department.

32. Whenever, by reason of the presence of a military or naval force near any post office, unusual business accrues thereat, the postmaster-general is hereby required to make a special order allowing proportionately reasonable compensation to the postmaster, and for clerical service, during the period of such extraordinary business.

33. It shall be the duty of postmasters to render a quarter-yearly account to the postmaster-general, under oath, in such form as the latter shall prescribe, of all emoluments or sums by them respectively received for boxes or pigeon-holes, or other receptacles for letters or papers, and by them charged for to individuals; or for the delivery of letters or papers at or from any place whatever; and of all emoluments, receipts and profits that have come to their hands by reason of keeping branch post offices; and no postmaster shall hereafter, under any pretence whatever, have or receive, or retain for himself, in the aggregate, more than the amount of his salary. And the postmaster-general is further authorized to require, by a form to be prepared by him, a sworn statement to accompany or following the quarterly account of any or all postmasters, to the effect that such postmaster has in such account truly stated the entire amount of postages, box-rents and all other charges and emoluments collected or received by him at his office during such quarter; and that he has not knowingly delivered, or permitted to be delivered to any person any mail matter on which the postage had not been paid at the time of delivery; and that such quarterly account exhibits truly and faithfully the entire receipts of his office which have been collected thereat, and the entire sum which could have been by due diligence collected thereat, as he verily believes; and that the credits he claims are just and true, as he verily believes; and any false swearing therein shall render him liable to the pains and penalties of perjury.

(a) Ante 782, pl. 150.

(b) Ante 780, pl. 144.

VIII. FRANKING PRIVILEGE.

34. Authority to frank mail matter is conferred upon and limited to the following persons: 3 March 1863 § 42.  
12 Stat. 708.

- I. The president of the United States, by himself or his private secretary.
- II. The vice president of the United States.
- III. The chiefs of the several executive departments.
- IV. Such principal officers, being heads of bureaus or chief clerks, of each executive department, to be used only for official communications, as the postmaster-general shall by regulation prescribe.
- V. Senators and representatives in the congress of the United States, including delegates from territories, the secretary of the senate and clerk of the house of representatives; to cover correspondence to and from them, and all printed matter issued by authority of congress, and all speeches, proceedings and debates in congress, and all printed matter sent to them; their franking privilege to commence with the term for which they are elected, and to expire on the first Monday of December following such term of office.

Who to enjoy the franking privilege.

VI. All official communications addressed to either of the executive departments of government by an officer responsible to that department: *Provided*, That in all such cases the envelope shall be marked "official," with the signature thereto of the officer writing the communication.

VII. Postmasters have also the franking privilege for their official communications to other postmasters: *Provided*, That in all such cases the envelope shall be marked "official," with the signature of the writer thereto, and for any and every such indorsement of "official" falsely made the person making the same shall forfeit and pay three hundred dollars.

VIII. Petitions to either branch of congress shall pass free in the mails.

IX. All communications addressed to any of the franking officers above described, and not excepted in the foregoing clauses, must be prepaid by postage stamps.

The franking privilege hereinbefore granted shall be limited to packages weighing not exceeding four ounces, except petitions to congress and congressional or executive documents, and such publications or books as have or may be published, procured or purchased by order of either house of congress, or a joint resolution of the two houses, which shall be considered as public documents, and entitled to be franked as such; and except also seeds, cuttings, roots and scions, the weight of the packages of which may be fixed by regulation of the postmaster-general.

IX. RATES AND PAYMENT OF POSTAGE.

35. All letters written by soldiers in the service of the United States, may be transmitted through the mails without prepayment of postage, under such regulations as the post office department may prescribe; the postage thereon to be paid by the recipients. 22 July 1861 § 11.  
12 Stat. 270.

36. All prepaid letters to soldiers in any regiment in the service of the United States, and directed to them at a point where they have been stationed, may be forwarded, whenever practicable, to any other point to which they may have been ordered, without further charge thereon. Postage on soldiers' letters need not be prepaid.  
24 July 1861 § 1.  
12 Stat. 272.

37. The provisions of the act of July 22d 1861, (a) authorizing soldiers to send letters through the mails of the United States without prepayment of postage, is hereby extended to the sailors and marines in the actual service of the United States, under such regulations as the post office department shall provide; the postage thereon to be paid by the recipients. Prepaid letters to be forwarded to soldiers.  
21 Jan. 1862 § 1.  
12 Stat. 832.

38. No mail matter shall be delivered by the postmaster until the postage due thereon shall have been paid; and no box at any post office shall be assigned to the use of any person until the rent therefor has been paid for at least one quarter, for which the postmaster shall give a receipt, and keep a record thereof in his office, which record shall be delivered to his successor. Act of 1861 extended to sailors and marines.  
3 March 1863 § 3.  
12 Stat. 702.

39. No postmaster shall receive to be conveyed by the mail any packet or package which shall weigh more than four pounds, except books published or circulated by order of congress. Payment of postage and box-rent  
Ibid. § 16.  
Amount that may be carried in the mails.

40. Upon the following mailable matter the postage must be prepaid at the time of mailing, by stamps, unless otherwise expressly provided in this act:

I. Upon all domestic letters, whether passing through the mails, or collected, or delivered by postal agents or carriers. Ibid. § 17.  
Upon what postage to be prepaid.

II. On all transient printed matter.

III. On all seeds, cuttings, bulbs, roots and scions; all pamphlets, books, book manuscripts and proof-sheets, maps, prints, engravings, blanks, flexible patterns, samples and

(a) *Supra* 35.

3 March 1863.

sample cards, phonographic paper, letter envelopes, postal envelopes, paper and photographic representations of different types.

IV. Upon all other things in the mail not otherwise herein provided for.

Ibid. § 18.  
Prepayment of  
postage on peri-  
odicals.

41. Upon the following mailable matter the postage shall be paid before delivery for not less than one quarter nor more than one year: and such payment for a term may be made either at the mailing office or at the office of delivery:—(if the term commences at any other time than at the beginning of a quarter, such payment must be made to cover such fractional quarter, and also for the next following quarter; otherwise the postage shall be collected thereon as on transient matter:)—upon regular weekly, tri-weekly, semi-weekly and daily publications, and all other regular publications, issued from a known office of publication at stated periods and sent to regular subscribers.

Ibid. § 19.  
Classification of  
mailable matter.

42. Mailable matter shall be divided into three classes, namely: first, letters; second, regular printed matter; third, miscellaneous matter.

Ibid. § 2.  
First class.  
Second class.  
Third class.

43. The first class embraces all correspondence, wholly or partly in writing, except that mentioned in the third class. The second class embraces all mailable matter exclusively in print, and regularly issued at stated periods, without addition by writing, mark or sign. The third class embraces all other matter which is or may hereafter be by law declared mailable; embracing all pamphlets, occasional publications, books, book manuscripts and proof-sheets, whether corrected or not, maps, prints, engravings, blanks, flexible patterns, samples and sample cards, phonographic paper, letter envelopes, postal envelopes or wrappers, cards, paper, plain or ornamental, photographic representations of different types, seeds, cuttings, bulbs, roots and scions.

Ibid. § 21.  
Single postage  
weight.

44. The maximum standard weight for the single rate of letter postage is one-half ounce avoirdupois.

Ibid. § 22.  
Rate of postage  
on mail letters.

45. The rate of postage on all domestic letters transmitted in the mails of the United States, and not exceeding one-half ounce in weight, shall be uniform at three cents; and for each half ounce or fraction thereof of additional weight, there shall be charged an additional rate of three cents, to be in all cases prepaid by postage stamps plainly affixed to such letter.

Ibid. § 23.  
Drop letters.

46. The rate of postage on all letters not transmitted through the mails of the United States, but delivered through the post office or its carriers, commonly described as local or drop letters, and not exceeding one-half ounce in weight, shall be uniform at two cents, and an additional rate for each half ounce or fraction thereof of additional weight, to be in all cases prepaid by postage stamps affixed to the envelope of such letter; but no extra postage or carrier's fee shall hereafter be charged or collected upon letters delivered by carriers, nor upon letters collected by them for mailing or for delivery.

Ibid. § 24.  
What to be  
charged with  
letter postage.

47. The domestic letter rate of postage is established for all mailable matter which is wholly or partly in writing, or is so marked as to convey any other or further intelligence or information than is conveyed by the original print in case of printed matter, or which is sent in violation of law or regulations of the department touching the enclosure of matter which may be sent at less than letter rates, and for all matter introduced into the mails for which no different rate is provided by law: *Provided*, That book manuscripts and corrected proofs passing between authors and publishers may pass at the rate of printed matter: *And provided further*, That publishers of newspapers and periodicals may print or write upon their publications sent to regular subscribers the address of subscribers and the date when the subscription expires, and may enclose therewith receipts for payment and bills for subscription thereto.

Manuscripts and  
proofs.  
Address and sub-  
scription bills.

Ibid. § 25.  
Non-enumerated  
matter to pay  
letter postage.

48. On all matter not enumerated as mailable matter, and to which no specific rates of postage are assigned, and which shall nevertheless be mailed, the rate, if the same shall be forwarded, is established at the rate of letter postage.

Ibid. § 26.  
Double postage.

49. If any matter on which by law the postage is required to be prepaid at the mailing office shall reach its destination without such prepayment, double the prepaid rates shall be charged and collected on delivery.

Ibid. § 27.  
Transmission of  
soldiers' letters.

50. The postmaster-general is authorized to provide by uniform regulation for transmitting unpaid and duly certified letters of soldiers, sailors and marines in the service of the United States to destination; and all other letters which from accident or neglect appear to have been deposited for mailing without prepayment of postage, where, in the latter class, the writer is not known or cannot be promptly advised of his default; but in all cases of letters not prepaid, except certified soldiers' and naval letters, the same shall be charged with double rates of postage, to be collected on delivery.

Ibid. § 28.  
Return of letters.

51. When any writer of a letter on which the postage is prepaid shall indorse in writing or in print upon the outside thereof his name and address, with a request that the same be returned to him if not called for or delivered within any number of days (not to exceed thirty days), any such letter shall not be advertised nor treated as a dead letter at the office addressed, but shall be returned as requested, charged with the proper postage at the prepaid rate, to be collected on the return delivery; and if not then delivered, shall be treated as a dead letter.

52. The postage on returned dead letters, not registered as valuable, shall be three cents for the single rate; on returned dead letters, registered as valuable, double rates shall be charged.

March 1863 § 29.  
Rate on returned  
dead letters.

53. All letters directed to any person not found at the office addressed may be forwarded to any other office where he may be found, with additional charge of postage therefor.

Ibid. § 30.

Forwarding of  
letters.

54. The postmaster-general shall have authority to pay, or cause to be paid, a sum not exceeding two cents each for all letters conveyed in any vessel or steamboat, not employed in carrying the mail, from one port or place to any other port or place in the United States, or from any foreign port to any port within the United States, subject to such regulations as the postmaster-general may prescribe, but all such letters shall be deposited in the post office at the port of arrival, for mailing or delivery; and if for delivery within the United States, shall be rated with double rates of postage, which shall cover the fee paid to the vessel; no fees shall be allowed for letters collected by a carrier on a mail route.

Ibid. § 31.

Ship letters, &c.

55. For the greater security of valuable letters posted for transmission in the mails of the United States, the postmaster-general is authorized to establish a uniform plan for the registration of such letters on application of parties posting the same, and to require the payment of the postage, as well as a registration fee not exceeding twenty cents on every such letter or packet, to be accounted for by postmasters receiving the same in such manner as the postmaster-general shall direct: *Provided, however,* That such registration shall not be compulsory, and it shall not render the post office department or its revenue liable for the loss of such letters or packets, or the contents thereof; and provision shall be made by regulation for a return receipt to the writer, showing to whom and when such registered letter was delivered, which receipt shall be received in the courts as *prima facie* evidence of such delivery.

Ibid. § 32.

Registration of  
letters.

56. The maximum standard weight for the single rate of postage on matter classed as printed matter, and also on that classed as miscellaneous matter, is four ounces avoirdupois, subject to the exception in the next following section provided.

Ibid. § 33.

Single rate for  
printed matter.

57. The rate of postage on transient mailable matter of the second class, and also on all miscellaneous mailable matter of the third class (except circulars and books), shall be two cents for each four ounces or fraction thereof contained in any one package to one address; and such postage shall in all cases be fully prepaid by stamps, plainly affixed to the wrapper thereof. Double these rates shall be charged for books. Unsealed circulars, not exceeding three in number, shall pass at the single rate of two cents, and in that proportion for a greater number, adding one rate for three circulars, or less number thereof, directed to one address. No extra postage shall be charged for a card printed or impressed upon an envelope or wrapper. These rates must in all cases be prepaid by stamps.

Ibid. § 34.

Transient mat-  
ter.

58. The rate of postage upon mailable matter of the second class, issued once a week, or more frequently, from a known office of publication, and sent to regular subscribers, shall be as follows: Upon newspapers and other periodical publications, each not exceeding the standard weight of four ounces, and passing through the mails or post offices of the United States between any points therein, the rate for each quarter of the year shall be—for publications issued once a week, five cents; issued twice a week, ten cents; issued three times a week, fifteen cents; issued six times a week, thirty cents; issued seven times a week, thirty-five cents; and in that proportion, adding one rate for each issue more frequent than once a week. For weight exceeding four ounces, and not exceeding eight ounces, an additional rate shall be charged; and on the same scale, an additional rate for each additional weight of four ounces or fraction thereof; and such postage must be prepaid for a term not less than one quarter nor more than one year, at either the office of mailing or of delivery, at the option of the subscriber, of which payments a record shall be made and preserved in the post office where paid; and no such publication shall be delivered from the office until such payment is made; but the publishers of weekly newspapers may send to each actual subscriber within the county where their papers are printed and published one copy thereof free of postage.

Ibid. § 35.

Newspapers and  
periodicals.

59. The rate of postage upon mailable matter of the second class, issued less frequently than once a week, from a known office of publication, and sent to regular subscribers, shall be as follows: Upon newspapers, magazines and other periodical publications, each not exceeding the standard weight of four ounces, and passing through the mails or post offices of the United States between any points therein, the rate for each such paper or periodical shall be one cent, and an additional rate of one cent for each additional weight of four ounces or fraction thereof: *Provided,* That the postmaster general may provide by regulation for the transportation of small newspapers in packages at the same rate by the standard weight of the package when sent to one address; and the rates herein provided must be prepaid at either the office of mailing or of deli-

Ibid. § 36.

Periodicals issued  
less than weekly.

3 March 1863.

very, at the option of the subscriber, for a term not less than one quarter nor more than one year, except that newsdealers may pay the postage upon their packages as received at the same rates *pro rata* as yearly or semi-annual subscribers who pay postage quarterly in advance.

Ibid. § 37.

Subscription bills may be enclosed.

60. Publishers may enclose in their publications sent to regular subscribers the bills for subscription thereto, without any additional charge for postage, and may write or print upon their publications, or upon the wrappers thereof, the name and address of the subscribers thereto, and the date when the subscription will expire; but any other enclosure or addition in writing or in print shall subject the same to letter postage, which shall be collected before delivery thereof.

Ibid. § 38.

Delivery by route agents.

61. The postmaster-general may from time to time provide by order the rates and terms upon which route agents may receive and deliver, at the mail car or steamer, packages of newspapers and periodicals delivered to them for that purpose by the publishers, or any news agent in charge thereof, and not received from nor designed for delivery at any post office.

Ibid. § 39.

Wrappers.

62. The postmaster-general has authority to prescribe by regulation the manner of wrapping and securing for the mails all matter not charged with letter postage nor lawfully franked, so that the same may be conveniently examined by postmasters; and if not so wrapped and secured, the same shall be subject to letter postage. He may also provide by regulation for ascertaining by furnished lists, by affidavit or otherwise, whether publishers send or have sent their publications unpaid through the mails to other than their regular subscribers.

Ibid. § 40.

Postmasters may remove wrappers.

63. Postmasters at the office of delivery are authorized, and it shall be their duty, to remove the wrappers and envelopes from printed and other matter not charged with letter postage, nor lawfully franked, for the purpose of ascertaining whether there is upon, or connected with, any such printed matter, or in such package, any matter or thing which would authorize or require the charge of a higher rate of postage thereon.

Ibid. § 41.

Affidavit of publishers.

64. The postmaster-general may require an affidavit, in form to be prescribed by general regulation, to be taken by any publisher, or any clerk, agent or servant of such publisher of any paper or periodical, which, by the terms of this act, may be sent to regular subscribers without prepayment of postage at the mailing office, to the effect that neither he nor any other proprietor, clerk, agent or employee, within his knowledge, has sent, or caused or permitted to be sent, through the mails, without prepayment by postage stamps, any copies of such paper or periodical (naming it), except the same were sent to *bona fide* and regular subscribers thereto. And if it be ascertained that such papers or periodicals have been thus unlawfully sent, with the knowledge or consent of such proprietors, or of the agent or clerk in charge of that business, or if such affidavit, when required by the postmaster-general, or by a special agent of the post office department, shall be refused, the person guilty of such offence, or refusing such oath, shall be liable to a fine of fifty dollars in each case, to be recovered by suit before any court of competent jurisdiction, one-half of which when recovered shall be paid to the informer.

Ibid. § 43.

Exchanges.

65. All publishers of periodicals, magazines and newspapers which shall not exceed sixteen ounces in weight shall be allowed to interchange their publications reciprocally free of postage: *Provided*, That such interchange shall be confined to a single copy of each publication.

#### X. POSTAGE STAMPS.

27 Feb. 1861 § 2.  
12 Stat. 107.

Stamped letter sheets to be furnished.

66. The postmaster-general shall be and he is hereby authorized to procure and furnish letter sheets with postage stamps impressed thereon (combining in one both a sheet and envelope), and to adopt such other improvements as may be deemed advisable, from time to time, in connection with postage stamps or stamped envelopes for letters or newspapers, subject to the provision that such stamps or envelopes shall be sold at the cost of procuring and furnishing the same as near as may be, and to all other provisions of the 8th section of an act of congress entitled "An act to establish certain post roads and for other purposes," approved August 31st 1852.(a)

Ibid. § 3.

Penalty to be incurred by second use of a stamp cut from a stamped letter, &c.

67. The penalty of fifty dollars, provided by section 8th of an act of congress entitled "An act to establish certain post roads and for other purposes," approved March 3d 1853,(b) shall apply as well to the using of a stamp cut from a stamped letter or newspaper envelope as to the re-use of the envelope entire.

17 July 1862 § 1.  
12 Stat. 592.

Postage stamps to circulate as currency for sums under \$5.

68. That the secretary of the treasury be and he is hereby directed to furnish to the assistant treasurers, and such designated depositaries of the United States as may be by him selected, in such sums as he may deem expedient, the postage and other stamps of the United States, to be exchanged by them, on application, for United States notes; and from and after the first day of August next, such stamps shall be receivable in payment of all dues to the United States less than five dollars, and shall be received in

(a) Ante 788, pl. 198.

(b) Ante 789, pl. 194.

exchange for United States notes when presented to any assistant treasurer or any designated depositary selected as aforesaid in sums not less than five dollars. 17 July 1862.

XI. LETTER CARRIERS.

69. Letter carriers shall be employed at such post offices as the postmaster-general shall direct, for the delivery of letters in the places respectively where such post offices are established; and for their services they shall severally receive a salary, to be prescribed by the postmaster-general, not exceeding eight hundred dollars per year: *Provided*, That, on satisfactory evidence of their diligence, fidelity and experience as carriers, the postmaster-general may increase their respective salaries, from time to time, to any sum not exceeding one thousand dollars, at offices where the income from postages on the local letters shall yield a sum more than sufficient to pay all expenses of the carrier system at such offices. Each of the said carriers shall give bond, with sureties, to be approved by the postmaster-general, for the safe custody and delivery of all letters, packets and moneys received by him. 3 March 1863 § 11. 12 Stat. 703. Letter carriers to receive a salary.

70. Whenever the postmaster-general shall have perfected the carrier system in any postal district so as, in his judgment, to justify him therein, he is authorized to make delivery, within any prescribed postal district, of mail matter by letter carriers, as frequently as the public convenience in such district shall require, and shall make all proper regulations for that purpose. Ibid. § 12. Deliveries.

71. The postmaster-general is authorized, when, in his judgment, the public interest or convenience may require it, to establish one or more branch post offices, and also pillar boxes or other receiving boxes, for the safe deposit of matter for the mails and for delivery; and in case of such establishment of a branch office, the person in charge thereof shall be appointed and his salary fixed, as in the case of a letter carrier, and the like bond required: *Provided*, That the post officer in charge of the branch office may also be a depositary for the sale of stamps, to be delivered to him for that purpose, by the postmaster of that postal district, in sums not at any time to exceed one-half of the penalty of his bond. Ibid. § 13. Branch offices and receiving-boxes. Sale of stamps.

72. All expenses for the letter carriers, branch offices and receiving boxes, or incident thereto, shall be entered and reported in a separate account from the ordinary postal expenses of such post office, and shall be shown in comparison with the proceeds of the postages on local mail matter at each office, in order that the postmaster-general may be guided in the expenditures for that branch of the postal service by the income derived therefrom; and all such expenses shall be paid out of the income of the post office at the district in which they are incurred. Ibid. § 14. Payment of expenses.

73. The postmaster of any office where letter carriers are employed may contract with the publishers of any newspapers or periodicals, and with the publishers of any circulars, for the delivery by postal carriers, within his postal district, of any such publications not coming through the mails, at rates and upon terms to be agreed upon, such arrangement and terms being equally open to all like publishers; but such contract shall have no force or effect until approved by the postmaster-general. The postmaster-general may also provide by regulation for the delivery by such carriers of small packets other than letters or papers, and not exceeding the maximum weight of mailable packages; but such packages must be prepaid by postage stamps at the rate of two cents for each four ounces or fraction thereof. Ibid. § 15. Delivery of printed matter.

XII. UNCLAIMED LETTERS.

74. When any person shall indorse on any letter his or her name and place of residence, as writer thereof, the same after remaining unclaimed for at the office to which it is directed thirty days, or the time the writer may direct, shall be returned by mail to said writer; and no such letters shall be advertised, nor shall the same be treated as dead letters, until so returned to the post office of the writer and there remaining unclaimed for one quarter. 6 April 1860 § 1. 12 Stat. 11. Letters indorsed with writer's address, not to be advertised, &c.

75. Letters which have been advertised under existing laws (vide section 26, act of March 3d 1825, (a) and section 5, act of March 3d 1851, (b) shall be returned to the post office department as dead letters, if unclaimed two months after the date of the advertisement: *Provided*, [That] letters at seaports intended for persons on board of certain designated vessels expected to arrive, and letters specially marked to be retained a longer period, shall be excepted from the operation of this act: *And provided further*, That said letters shall be returned under regulations to be prescribed by the postmaster-general. 27 Feb. 1861 § 6. 12 Stat. 166. When unclaimed letters to be sent to the dead letter office.

76. The unclaimed money from dead letters, now appropriated to the use of the department under section 26, act of March 3d 1825, (c) may be exclusively applied in Ibid. § 7.

(a) Ante 790, pl. 200.

(b) Ante 790, pl. 203.

(c) Ante 790, pl. 200.



27 February 1861.

Disposition of money found in unclaimed letters

21 Jan. 1862 § 1.  
12 Stat. 332

Dead letters to be returned.

Ibid. § 2.

Additional clerks to be employed.

3 March 1863 § 7.  
12 Stat. 702.

Postmaster-general to make regulations as to unclaimed letters.

Publication.

Compensation.

Ibid. § 8.

Unclaimed letters containing valuable enclosures to be registered.

Disposition thereof.

Ibid. § 9

Disposition of unclaimed printed matter.

Ibid. § 10.

An information, under the act 3 March 1845 § 10 (768, pl. 59), for carrying a letter out of the mail, need not negative the fact that it was stamped; the act of 1852, which allows stamped letters to be so carried, merely furnishes matter of defence. *United States v. Tilden*, 21 Law Rep. 598.

A prosecution under that act must be by information, not by indictment. *Ibid.*

Neither the act of 2 March 1827 (707, pl. 52) nor that of 3 March 1845 (707, pl. 58) prohibits the business of private letter carrying, within the limits of a post town. *United States v. Kochersperger*, 9 Am. L. R. 145. See *United States v. Hall*, *Ibid.* 232.

future to promote the efficiency of the dead letter office, by providing for a more careful examination of letters, and the return of a larger number to the writers (whether with or without valuable enclosures): *Provided*, [That] said officer shall make a detailed report of his proceedings to congress during the next session thereof.

77. That the postmaster-general be authorized to return all dead letters, except those containing circulars and other worthless matter, to their writers, whenever their names can be ascertained. [All valuable letters to be charged treble, and all others double the ordinary rate of postage, to be collected from the writers.]

78. To enable this to be done, the postmaster-general is authorized to employ not exceeding twenty-five additional clerks, at salaries not exceeding an average of eight hundred dollars per year, and no one to receive over twelve hundred dollars per year: *Provided*, He is satisfied that the receipts for dead letter postage will amount to a sum sufficient to pay the aggregate compensation of the said clerks. And he shall report to the next session of congress the additional income from this source, with its cost and statistical results.

79. The postmaster-general is hereby authorized to regulate the periods during which undelivered letters shall remain in any post office, and the times such letters shall be returned to the dead letter office, and to make regulations for their return to the writers from the dead letter office, when he is satisfied they cannot be delivered to the parties addressed. He is authorized also to order the publication of the list of non-delivered letters at any post office, in his discretion, by writing, posted in a public place or places, or in any daily or weekly newspaper regularly published within the post office delivery having the largest circulation within such delivery; and where no daily paper is published within the post office delivery, such list may be published in any daily newspaper of an adjoining delivery having the largest circulation within the delivery of the post office publishing [the] list; but in no case shall compensation for such publication be allowed at a rate exceeding one cent for each letter so advertised; and no such publication shall be required except where the postmaster-general shall decide that the public interest requires it: *Provided*, That letters addressed to parties foreign born may be published in a journal of the language most used by the parties addressed, if such be published in the same, or an adjoining delivery.

80. Dead letters containing valuable enclosures shall be registered in the department; and when it appears that they can neither be delivered to their address nor to the writers, the contents thereof, so far as available, shall be included with the receipts of the post office department, and the amount thereof shall be shown in the annual report, and shall be subject to reclamation by either the party addressed or by the sender, for four years from registry thereof, careful account being kept of the same. All other letters deemed of value or of importance to the party addressed, or to the writer, and which it appears cannot be returned to either destination, shall be disposed of as the postmaster-general shall direct.

81. The postmaster-general may provide by regulation for the disposition, for the benefit of the department, of printed matter which remains in any post office, or in the department, not called for by the party addressed; but the postmaster shall notify the publisher of any newspaper or periodical of the fact when any subscriber shall refuse to take the same from the office, or shall neglect to call for the same for the period of one month, which notice may be sent free under regulation to be provided by the postmaster-general.

82. The action of the post office department respecting foreign dead letters shall be subject to conventional stipulations with the respective foreign administrations.

The establishment of post routes, within the limits of a city by the postmaster-general, under the act of 3 March 1861 (768, pl. 198), does not render them post roads within the meaning of the act of 1827, nor make the business of private letter carriers within the postal district of the city, unlawful. *Ibid.*

Where a postmaster has made default in not paying the quarterly balance found to be due to the United States, on a settlement of his accounts, and no suit is instituted for two years after such default, his sureties are discharged. *Roddy v. United States*, 10 Pittsburgh Leg. J. 161.

## Practice.

1. Where transitory actions to be brought. Service of process in another district. Process in local actions. 2. Where local actions to be brought in respect to land, &c., in different districts.

1. All suits, not of a local nature, hereafter to be brought in the circuit and district courts of the United States, in a district in any state containing more than one district, against a single defendant, shall be brought in the district in which the defendant resides; but if there be two or more defendants, residing in different districts in the same state, the plaintiff may sue in either district and issue a duplicate writ against the defendants, directed to the marshal of any other district within the state in which any of the defendants reside; on which duplicate writ the clerk issuing the same shall indorse that it is a true copy of a writ sued out of the court of the proper district; and such original and duplicate writs, so issued, shall, when executed and returned into the office from which they issued, constitute one suit and be proceeded on accordingly; and upon any judgment rendered in a suit so brought, process of execution may be issued, directed to the marshal of any district in the same state. And in suits of a local nature, where the defendant resides in a different district, in the same state, than the one in which the suit is brought, the plaintiff may have original and final process against such defendant, directed to the marshal of the district in which he resides.

4 May 1858 § 1.  
11 Stat. 272.

Where transitory actions to be brought.

Service of process in another district.

Process in local actions.

2. In all cases of a local nature, at law or in equity, where the land or other subject-matter of a fixed character lies partly in one district and partly in another district, within the same state, the plaintiff may bring his action or suit in the circuit or district court of either district; and the court in which any such action or suit shall have been commenced, as aforesaid, shall have jurisdiction to hear and decide the same, and to cause mesne or final process to be issued and executed, as fully as if the land or other subject-matter were wholly within the district for which such court is constituted.

Ibid. § 2.

Where local actions to be brought in respect to land, &c., in different districts.

Under the act of 1817 (137, pl. 6), the court is authorized to require its officers to pay moneys received by them into court, to be deposited in bank by the clerk of the court. And a late deputy marshal is such officer, and amenable to summary proceedings by attachment. *The Park Laurens*, 1 Abbott 508.

In deciding a question depending on the state laws, the federal courts, where there are conflicting cases, adopt the latest decision of the supreme court of the state, as their rule of decision, under the act of 1789. *Dike v. Kuhns*, 5 Pittsburgh Leg. J. 239.

Where a circuit court adopted the construction of a state statute, placed upon it by the supreme court of the state, the supreme court of the United States will not reverse, because such construction was subsequently overruled by the state court. *Morgan v. Curtenius*, 20 How. 1.

The state laws of evidence are rules of decision, in trials at com-

mon law, in the federal courts; and the United States are bound by the same rules of evidence as other suitors. *United States v. Dunham*, 21 Law Rep. 591.

The act 28 February 1839 (15, pl. 2) does not enable the circuit courts to make a decree in equity which may affect a resulting interest vested in a party not before the court. But if an objection for the want of such a party be sustained at the final hearing, the court, instead of dismissing the bill, usually retains the cause, in order that he may be made a party. *Winter v. Ludlow*, 16 Leg. Int. 332.

Under the act 8 May 1858 (*supra* 1), a subpoena issued to bring in such a party, may be served in any other district of the same state, although the original suit was commenced before the passage of the act; for the proceeding, though supplemental as to the former parties, is original as to such new party. *Ibid*.

## Printing.

### I. PUBLIC PRINTING.

1. Printing of documents by both houses regulated. Number of copies. Distribution. Compensation.
2. Printing of patent office report.
3. Price of public printing reduced.
4. Documents to be furnished to printer in advance of annual reports. Number to be printed.
5. Number of bills.
6. Printing of annual statement of imports and exports.
7. Commercial relations.
8. Lithographing and engraving to be given to the lowest bidder.
9. Form and style to be determined by superintendent.

### II. GOVERNMENT PRINTING OFFICE.

10. How public printing to be executed. Buildings and materials to be purchased.
11. Duties of superintendent. Foremen. Their duties. Num-

ber of hands.

12. Responsibility for manuscripts, &c. Accounts. Advances. Limit of prices.

13. Superintendent to be charged with paper and materials. Receipts.

14. All printing to be executed under the provisions of this act.

15. Further duties of the superintendent.

16. Standard weight of paper to be fixed. Superintendent to advertise for proposals. How differences to be adjusted. Proceedings on default of contractor. Liability. Accounts of paper received and how expended.

17. Engraving, how executed.

18. Annual estimates to be prepared. Reports to congress.

19. Penalty for being concerned in contracts.

20. Punishment for collusion with contractors.

21. Estimates and reports of payments.

### I. PUBLIC PRINTING.

1. After the expiration of the present session of congress, when any document shall be ordered to be printed by both houses of congress, whether the copies ordered be the reserved [regular] number or additional [extra] numbers, the entire printing of such documents shall be done by the printer of that house which first ordered the same; and the house so first ordering the same shall immediately notify the other house of such order. And the superintendent of public printing is hereby directed, in all cases when any document has been ordered to be printed by both houses of congress, to cause the

3 March 1859 § 3.  
11 Stat. 422.

Printing of documents ordered by both houses regulated.

3 March 1859. order of the house last making the order to print such document to be executed by the printer of the house first ordering the same, and to further cause the other house to be furnished with the number ordered by it. And in no case shall more than one thousand five hundred and fifty copies of any document be printed, unless the printing of extra numbers be ordered by either house; and the one thousand five hundred and fifty copies as reserved [regular] numbers, shall be distributed by the officers of the house first ordering the printing of the same to the same persons and in the same manner as such numbers heretofore ordered by both houses have been distributed; and in all such cases the payment for composition shall be the same as though the printing had been ordered by but one house.

**Ibid. § 4.**  
Printing of patent office report. 2. That the secretary of the interior be and he is hereby directed to cause the annual report of the commissioner of patents on mechanics, hereafter to be made to the senate and house of representatives, to be prepared and submitted in such manner as that the plates and drawings necessary to illustrate each subject shall be inserted so as to comprise the entire report in one volume, not to exceed eight hundred pages.

25 June 1860 § 1.  
12 Stat. 120.  
Price of public printing reduced. 3. That the prices established and allowed for the public printing by the act entitled "An act to provide for executing the public printing and establishing the prices thereof, and for other purposes," approved August 26th 1852, (a) and by the several acts amendatory thereof, that is to say: for composition, press-work, folding, stitching and inserting maps and plates, be and the same are reduced forty per centum; and that, for the purpose of giving full force and effect to this resolution, the superintendent of the public printing is hereby authorized and directed to cause the accounts of the public printer or printers to be made out and rendered to him, as heretofore, under the provisions of the act of August 26th 1852 (b) (except as to the printing of the post office blanks, which have been ordered by law to be put out by contract to the lowest bidder); and before certifying the same to the treasury for payment, he shall deduct from the aggregate amount of each account so rendered the sum of forty per centum, and the residue shall be received by the public printer or printers as full compensation for the work stated in said account. This resolution shall take effect from the passage thereof.

3 March 1863 § 1.  
12 Stat. 825.  
Documents to be furnished to printer in advance of annual reports.  
Number to be printed. 4. That instead of furnishing manuscript copies to each house of congress, the heads of the several departments of government be required to furnish the superintendent of the public printing with copies of the documents usually accompanying their annual reports on or before the first day of November of each year; whose duty it shall be to print, in addition to the number now required by law, two thousand copies for the use of the senate, and five thousand for the use of the house, in volumes (bound in the usual manner) of convenient size, and to deliver the same to the proper officer of each house, respectively, on or before the third Monday in December of each year. It shall also be his duty to print for the use of each of said heads of departments one thousand copies of their said reports proper; and for the use of the commissioners of the general land office, of Indian affairs, and of pensions, five hundred copies of each of their reports, respectively. And it shall not be lawful for said superintendent to print any greater number of said reports, nor the reports of heads of any bureau to their respective superiors, unless directed to do so by either house of congress.

**Ibid. § 2.**  
Number of bills. 5. Hereafter the number of any bill or joint resolution ordered or required to be printed by either the senate or house of representatives, under any rule of either house, shall not exceed six hundred, unless specially directed by the house ordering the same.

**Ibid. § 3.**  
Printing of annual statement of exports and imports. 6. It shall be the duty of the secretary of the treasury to furnish a condensed statement of the aggregate amount of the exports to, and imports from, foreign countries to the superintendent of the public printing, on or before the first day of November of each year, who shall print and bind as soon thereafter as practicable ten thousand copies thereof, to be distributed as follows, viz.: The usual number (one thousand five hundred and fifty) for the two houses of congress; three hundred copies for the treasury department; two thousand for the use of the members of the senate; and six thousand one hundred and fifty copies for the use of the members of the house of representatives.

**Ibid. § 4.**  
Commercial relations. 7. Six thousand copies of the "Commercial Relations," annually prepared under the direction of the secretary of state, be printed and distributed as follows, viz.: The usual number (one thousand five hundred and fifty) for the houses of congress; four hundred and fifty for the state department; two thousand for the use of the members of the senate; and three thousand for the use of the members of the house of representatives.

**Ibid. § 5.**  
Lithographing and engraving to be given to the lowest bidder. 8. All lithographing and engraving, where the probable cost exceeds two hundred and fifty dollars, shall be awarded to the lowest and best bidder for the interest of the government, after due advertisement by the superintendent of public printing, under the direction of the committee on printing.

(a) Ante 797, pl. 13.

(b) Ante 799, pl. 19.

9. The form and style in which the printing ordered by either house of congress, or by any of the departments, shall be executed, and the size of type to be used, shall be determined by the superintendent of public printing, having proper regard to economy and workmanship.

3 March 1863 § 6.  
Form and style to be determined by superintendent.

II. GOVERNMENT PRINTING OFFICE.

10. That the superintendent of public printing be and is hereby authorized and directed to have executed the printing and binding authorized by the senate and house of representatives, the executive and judicial departments and the court of claims. And to enable him to carry out the provisions of this act, he is authorized and directed to contract for the erection or purchase of the necessary buildings, machinery and materials for that purpose; said contract to be subject to the approval of the joint committee on printing of the two houses of congress: *Provided*, That the sum so contracted to be paid shall not exceed one hundred and fifty thousand dollars.

23 June 1860 § 1  
12 Stat. 117.

How public printing to be executed.

Buildings and materials to be purchased.

11. It shall be the duty of the said superintendent to superintend all the printing and binding, the purchase of paper, as hereinafter directed, the purchase of other necessary materials and machinery, and the employment of proof readers, compositors, pressmen, laborers and other hands necessary to execute the orders of congress and of the executive and judicial departments, at the city of Washington. And to enable the said superintendent more effectually to perform the duties of his office, he shall appoint a foreman of printing, at an annual salary of eighteen hundred dollars, and a foreman of binding, at an annual salary of fifteen hundred dollars; but no one shall be appointed to said positions who is not practically and thoroughly acquainted with their respective trades. It shall be the duty of the said foremen of printing and binding to make out and deliver to the said superintendent, monthly statements of the work done in their respective departments, together with monthly pay rolls, which shall contain the names of the persons employed, the rate of compensation and amount due to each and the service for which it shall be due. They shall also make out estimates of the amount and kind of materials required, and file requisitions therefor, from time to time, as it may be needed, and shall receipt for the same to the superintendent. And the said foremen shall be held accountable for all materials so received by them: *Provided*, That the superintendent shall at no time employ more hands in the public printing and binding establishment than the absolute necessities of the public work may require; and further, that the superintendent report to congress, at the beginning of each session of congress, the number of hands so employed, and the length of time each has been employed.

*Ibid.* § 2.

Duties of superintendent.

Foremen.

Their duties.

Number of hands

12. Said superintendent shall take charge of and be responsible for all manuscripts and other matter to be printed, engraved or lithographed, and cause the same to be promptly executed. And he shall render to the secretary of the treasury, quarterly, a full account of all purchases made by him, and of all printing and binding done in said office for each of the houses of congress, and for each of the executive and judicial departments. For the payment of the work and materials, there shall be advanced to the said superintendent, from time to time, as the public service may require it, and under such rules as the secretary of the treasury may prescribe, a sum of money, at no time exceeding two-thirds of the penalty of said superintendent's bond. And the said superintendent shall settle the account of his receipts and disbursements in the manner now required of other disbursing officers: *Provided, however*, That said superintendent shall not be allowed credit at the treasury for payments on account of services rendered in said printing establishment, at higher prices than those paid for similar services in the private printing and binding establishments of the city of Washington.

*Ibid.* § 3.

Responsibility for manuscripts, &c.

Accounts.

Advances.

Limit of prices.

13. It shall be the duty of the said superintendent to charge himself, in a separate book to be kept therefor, with all paper and other materials received by him for the public use, and to furnish the same to the foremen employed by him, on their requisitions, herein provided for, as the public service may require, taking a receipt in all cases therefor from the foreman at the head of the department in which the paper or other material has been used.

*Ibid.* § 4.

Superintendent to be charged with paper and materials.

Receipts.

14. All the printing and binding, and all blank books ordered by the heads of the executive and judicial departments of the government, or of the chiefs of the bureaus thereof, and all the printing and binding, and all blank books ordered by congress, or by either house of congress, shall, on and after the 4th day of March 1861, be done and executed under said superintendent, in accordance with the provisions of this act: *Provided*, That all the printing ordered and to be ordered by the thirty-sixth congress, shall be executed by the printers of the senate and house of representatives, as now authorized by law; but no printing or binding other than that ordered by congress or the heads of departments, as aforesaid, shall be executed in said office.

*Ibid.* § 5.

All printing to be executed under the provisions of this act.

15. It shall be the duty of said superintendent to receive from the secretary of the senate and the clerk of the house of representatives, and from the heads of departments

*Ibid.* § 6.

23 June 1860.

Further duties  
of the superin-  
tendent.

and chiefs of bureaus, all matter ordered to be printed and bound, or either printed or bound, at the public expense, and to keep a faithful account of the same, in the order in which the same may be received; and when the same shall have been printed and bound, if the same is ordered to be bound, see that the volumes or sheets are promptly delivered to the officer of the senate, or house of representatives, or department authorized to receive the same, whose receipt therefor shall be a sufficient voucher, by the superintendent, of their delivery.

Ibid. § 7.

Standard weight  
of paper to be  
fixed.Superintendent  
to advertise for  
proposals.

16. The joint committee on printing for the two houses of congress, shall agree and fix upon a standard of paper for the printing of congressional documents, to weigh not less than fifty pounds to the ream of five hundred sheets, of twenty-four by thirty-eight inches; and it shall be the duty of the said superintendent of the public printing to furnish samples of said standard paper to applicants therefor, and to advertise annually, in one or more newspapers having the largest circulation in the cities of Boston, New York, Philadelphia, Baltimore, Cincinnati, Chicago, Washington, Richmond, Raleigh, Charleston, New Orleans and Saint Louis, for the space of sixty days prior to the first of July, for sealed proposals to furnish the government of the United States all paper which may be necessary for the execution of the public printing, of quality and in quantity to be specified in the said advertisements, from year to year. He shall open such proposals as may be made, in the presence of the secretary of the senate and the clerk of the house of representatives, and shall award the contract for furnishing all of said paper, or such class thereof as may be bid for, to the lowest bidder, for the quality of paper advertised for by the said superintendent, and determined by the joint committee of the two houses of congress. It shall be the duty of said superintendent to compare the paper furnished by the public contractor with the standard quality; and he shall not accept any paper from the contractor which does not conform to the standard determined upon as aforesaid. And in case of difference of opinion between the superintendent of public printing and the contractors for paper, with respect to its quality, the matter of difference shall be determined and settled by the joint standing committee on printing of the two houses of congress. In default of any contractor under this law to comply with his contract in furnishing the paper in the proper time, and of proper quality, the superintendent is authorized to enter into a new contract with the lowest and best bidder for the interests of the government, amongst those whose proposals were rejected at the last annual lettings, if it be practicable so to do, and if not, then to advertise for proposals, and award the contract as hereinbefore provided; and during any interval which is thus created by the new advertisement for such proposals, the superintendent shall purchase in the open market, by and with the approval of the secretary of the interior, all such paper necessary for the public service, at the lowest price. For any increase of cost to the government in procuring a supply of paper for the use of the government, the contractor in default and his securities shall be charged with and held responsible for the same, and shall be prosecuted upon their bond by the solicitor of the treasury, in the name of the United States, in the circuit court of the United States, in the district in which the defaulting contractor resides; and to enable the solicitor to do so, the said superintendent shall report to him the default on its happening, with a full statement of all the facts in the case. The said superintendent shall keep a just and true account of all the paper received from the contractor or contractors, together with an account of all the paper used for the purposes of the government under this act, and shall report the amount of each class consumed in said printing establishment, and in what works or publications the same was used, to the secretary of the interior, at the end of each and every fiscal year.

How differences  
to be adjusted.Proceedings on  
default of con-  
tractor.

Liability

Accounts of pa-  
per received and  
how expended.

Ibid. § 8.

Engraving, how  
executed.

Ibid. § 9.

Annual esti-  
mates to be pre-  
pared.Reports to con-  
gress.

17. Whenever any charts, maps, diagrams, views or other engravings shall be required to illustrate any document ordered to be printed by either house of congress, such engravings shall be procured by the superintendent of printing, under the direction and supervision of the committee on printing of the house ordering the same.

18. It shall be the duty of the said superintendent annually to prepare and submit to the register of the treasury, in time to have the same embraced in the annual estimates from that department, detailed estimates of the salaries, amount to be paid for wages, engraving, binding, materials and for any other necessary expense of said printing establishment for the second year. And the said superintendent shall also, on the first day of the meeting of each session of congress, or as soon thereafter as may be, report to congress the exact condition of the public printing, binding and engraving; the amount and cost of all such printing, binding and engraving; the amount and cost of all paper purchased for the same; a statement of the several bids for materials, and such further information as may be within his knowledge in regard to all matters connected therewith.

Ibid. § 10.

19. Neither the superintendent nor any other officer to be appointed under this act

shall, during his continuance in office, have any interest, direct or indirect, in the publication of any newspaper or periodical, or in any printing of any kind, or in any binding or engraving, or in any contract for furnishing paper or other material connected with the public printing; and any violation of this section shall subject the party offending, on conviction before any court of competent jurisdiction, to imprisonment in the penitentiary for a term of not less than one, nor more than five years, and to a fine of five hundred dollars.

23 June 1860.

Penalty for being concerned in contracts.

20. If the said superintendent shall corruptly collude with any person or persons furnishing materials or bidding therefor, or with any other person or persons, or have any secret understanding with him or them, by himself or through others, to defraud the United States, or by which the government of the United States shall be defrauded or made to sustain a loss, contrary to the true intent and meaning of this act, he shall, upon conviction thereof before any court of competent jurisdiction, forfeit his office, and be subject to imprisonment in the penitentiary for a term of not less than three, nor more than seven years, and to a fine of three thousand dollars.

Ibid. § 11.

Punishment for collusion with contractors.

21. The superintendent of public printing shall submit to congress at the commencement of each session detailed estimates of the sums required for the support of the government printing office, and he shall also submit a report showing the payments made during the preceding year under his direction.

20 Feb. 1861 § 1.  
12 Stat. 135.

Estimates and reports of payments.

## Prize.

[See NAVY, 49-59.]

1. Duties of prize commissioners.
2. Allowance to be made for expenses.
3. Compensation of commissioners, district attorney, and counsel for the captors.
4. Proceedings on decree of condemnation.
5. To what cases to apply.
6. Prize-moneys to be paid into the treasury. Commissioners.
7. Sale of prize property. Disposition of proceeds. Payment of expenses. Navy department to be credited with amount for

distribution.

8. Captured property may be taken for government use.
9. Auctioneers to be employed to sell. Notice. Punishment of fraud.
10. Compensation of counsel for captors.
11. Commissioners of prize.
12. Fees of witnesses.
13. Appeals regulated.

1. Whenever any property captured as prize shall be brought into any district of the United States for adjudication, it shall be the duty of the prize commissioners for such district forthwith to receive, seal and safely keep the same until process shall be issued out of the court under which the same shall be placed in the custody of the marshal of such district. It shall be the further duty of said prize commissioners, at the time of taking such possession, and from time to time pending the adjudication, to examine into the condition of said property, and report to the court if the same or any part thereof be perishing or perishable, or deteriorating in value; and if the same be so found by the court, upon said report or other evidence, the court may thereupon order an interlocutory sale thereof by the United States marshal, and the deposit of the gross proceeds of such sale in the registry of the court, to abide the further order of the court, whether a claim to said property has or has not been interposed. It shall be the further duty of the said prize commissioners to receive from the prize master all the papers and documents, and forthwith to proceed to take the testimony of the witnesses prescribed by law, pursuant to the rules and under the interrogatories adopted by the court, and separately from each other and unattended by counsel, and the said papers, documents and testimony securely to seal with their seals, and as soon as practicable deposit in the registry of the court; and thereafter promptly and without unnecessary delay the court shall proceed to hearing and adjudication.

25 March 1862 § 1.  
12 Stat. 374.

Duties of prize commissioners.

2. All reasonable and proper claims and charges for pilotage, towage, wharfage, storage, insurance and other expenses incident to the bringing in and safe custody and sale of the property captured as prize, shall be a charge upon the same, and having been audited and allowed by the court, shall, in event of a decree of condemnation or of restitution on payment of costs, be paid out of the proceeds of any sale of the property, final or interlocutory, in the custody of the court. In case of a decree of restitution upon payment of costs, where no sale has been made, such charges and expenses shall constitute part of said costs to be paid by the claimant.

Ibid. § 2.

Allowance to be made for expenses.

3. The prize commissioners, and also the district attorney, acting for the United States, and the counsel for the captors, shall be entitled to receive a just and suitable compensation for their several and respective services in each prize case or proceeding; and the same shall be adjusted and determined by the court upon due consideration of the facts and circumstances of each case and of the services actually rendered therein;

Ibid. § 3.

Compensation of commissioners, district attorney, and counsel for the captors.

25 March 1362.

and the same, when so adjusted, shall, in case of final condemnation or restitution on payment of costs, be paid out of the proceeds of the prize property in the custody of the court, or when no sale has been made, in whole or in part, as the court may direct by the claimant.

Ibid. § 4.

Proceedings on  
decree of condem-  
nation.

4. Whensoever a final decree of condemnation of property captured as prize shall have been made, unless an interlocutory sale has been made as hereinbefore provided for, the property shall be sold by the United States marshal pursuant to the practice and proceedings in admiralty, and the gross proceeds of such sale shall be forthwith deposited in court; and thereupon the prize commissioners shall proceed, under the direction of the court, to take the requisite evidence and report the same to the court, to the end that a final decree shall be made determining what public ships of the United States are entitled to share in the prize, and whether the prize was of superior, equal or inferior force to the vessel or vessels making the capture, and within thirty days after the entry of the same, the clerk of the court shall transmit to the treasury of the United States the moneys so deposited in court, together with a certified copy of the said decree, after deducting from said moneys the costs of court and the charges and expenses hereinbefore provided for.

Ibid. § 5.

To what cases to  
apply.

5. The provisions of this act shall apply as well to cases now pending as to all future cases of maritime captures, and to captures and seizures made under the laws for the abolition of the slave trade; and all laws and parts of laws inconsistent herewith are hereby repealed. (a)

17 July 1862 § 1.  
12 Stat. 627.

Prize-moneys to  
be paid into the  
treasury.

6. All moneys arising from the sale of property under the prize laws of the United States, whether under interlocutory or final decree, shall be paid by the marshal into the treasury of the United States for safe keeping immediately after the day of sale, instead of the registry of the court, less the costs and disbursements sworn to by the marshal and taxed by the court; and every clerk of a United States court now having any such moneys in hand shall immediately pay the same into the treasury of the United States, less the costs and disbursements to be sworn to and taxed as aforesaid, and upon a final decree of condemnation or restitution, it shall be the duty of the secretary of the treasury, and he is hereby authorized to pay over the same upon the order of the proper court; and no more shall be retained by any clerk from money received and paid over by him under this resolution as commissions or otherwise, than one per centum upon the first one thousand dollars in each case, and one-fourth of one per centum on the excess above that sum, not, however, to exceed two hundred and fifty dollars in any case.

3 March 1863 § 1.  
12 Stat. 759.

Sale of prize  
property.

Disposition of  
proceeds.

Payment of ex-  
penses.

7. Whenever any prize property shall be condemned in any district or circuit court, or shall at any stage of the proceedings be found by the court to be perishing, perishable, or liable to deteriorate or depreciate, or whenever the costs of keeping the same shall be disproportionate to its value, or whenever all the parties in interest who have appeared in the case shall agree thereto, it shall be the duty of the court to order a sale thereof, and no appeal shall operate to prevent the making or execution of such order. And upon any sale it shall be the duty of the marshal forthwith to deposit the gross proceeds of the sale with the assistant treasurer of the United States nearest to the place of sale, and subject to the order of the court in the particular case; and the court may, at any time, order the payment, from such deposit, of the expenses and disbursements necessarily incurred in the custody, preservation and sale of said property, audited and allowed by the court in the manner provided by law. And when a decree of condemnation shall be made in any cause, the court may, in like manner, order the payment, from said deposit, of the costs, fees and charges decreed in the cause. And on a final decree of distribution, after the payment of such costs, fees and expenses, the residue of the deposit shall, by order of the court, be paid into the treasury of the United States for distribution according to the decree; and the clerk of the court shall forthwith transmit to the secretary of the treasury and the secretary of the navy certified copies of said final decree of distribution. And in case the final decree shall be for restitution without costs, the costs, fees and disbursements allowed by the court and unpaid shall be a charge upon the fund for defraying the expenses of suits in which the United States is a party or interested. And the treasury department shall credit the navy department with the amount held for distribution; and the several officers, marines, sailors and other persons in the naval service entitled to share in the prize-money, shall be credited in their accounts with the navy department with the amount to which they are respectively entitled.

Navy depart-  
ment to be credit-  
ed with amount  
for distribution.

Ibid. § 2.

8. The secretary of the navy or the secretary of war shall be, and they or either of them are hereby authorized to take any captured vessel, any arms or munitions of war,

(a) This act affects only the mode of procedure: it prescribes no rule of decision, but leaves the court to be guided by the general law known to the prize courts of the civilized world. The *Amy Warwick*, 24 Law Rep. 494.

or other material for the use of the government; and when the same shall have been taken before being sent in for adjudication, or afterwards, the department for whose use it was taken shall deposit the value of the same in the treasury of the United States, subject to the order of the court in which prize proceedings shall be taken in the case; and when there is a final decree of distribution in the prize court, or if no proceedings in prize shall be taken, the money shall be credited to the navy department to be distributed according to law.

8 March 1863.

Captured property may be taken for government use.

9. The secretary of the navy shall employ an auctioneer or auctioneers of established reputation in that branch of merchandise, to make sales of all prize goods, under the direction of the marshal of the district in which the property shall be ordered to be sold, and at a rate of compensation not to exceed in any case one and one-fourth per centum upon the gross amount of the sales; and such sales shall be advertised in the fullest and most conspicuous manner, and to the satisfaction of the secretary of the navy. And any fraud, collusion or combination, or any act or fraudulent device or contrivance in the sale or disposition of any prize property, by which the captors or the government are or may be defrauded, shall be and is hereby declared to be a felony; and any public officer or agent, or any other person engaged therein, upon conviction thereof by or before any court of competent jurisdiction, shall be liable to a fine not exceeding twenty thousand dollars, and to imprisonment not exceeding ten years, or to both, in the discretion of the court.

Ibid. § 3.

Auctioneers to be employed to sell.

Notice.

Punishment of fraud

10. That the third section of the act of 25th March 1862, entitled "An act to facilitate evidence and proceedings in and adjudications upon captured property of prize," be and the same is hereby amended, so that the compensation of counsel to the captors to be adjusted and determined by the court, and paid and allowed as costs, shall be confined to compensation for such services as may be rendered necessary by reason of the captors having interests conflicting with those of the United States, and proper in the opinion of the court to be represented by separate counsel from those representing the United States. And so much of the twelfth section of the act of July 17th 1862, entitled "An act for the better government of the navy of the United States," as authorizes the secretary of the navy to employ an agent or counsel for the captors, and to fix his compensation, is hereby repealed.

Ibid. § 4.

Compensation of counsel for captors.

11. The commissioners in prize shall not exceed two in any district of the courts of the United States, to be appointed by the district court of each district, one of whom shall be a retired naval officer, to be appointed by the court and approved by the secretary of the navy; and the annual salaries in each district of both commissioners shall not exceed six thousand dollars. And all counsel fees in prize cases in the supreme court of the United States, which have been or may be incurred or authorized by any department of the government, shall be audited and allowed by the attorney-general and solicitor of the treasury, and shall be a charge upon and paid out of the fund appropriated for defraying the expenses of suits in which the United States are parties or interested.

Ibid. § 5.

Commissioners of prize.

Counsel fees.

12. When the court shall allow witnesses' fees to any witness in a prize cause, and the court has no money subject to its order in the cause, the same shall be paid by the marshal as in the case of witnesses in causes in which the United States is a party, and shall be repaid from any money deposited to the order of the court in said cause.

Ibid. § 6.

Fees of witnesses.

13. Appeals from the district courts of the United States in prize causes shall be directly to the supreme court, and shall be made within thirty days of the rendering of the decree appealed from, unless the court shall previously have extended the time for cause shown in the particular case; and the supreme court shall always be open for the entry of such appeals. Such appeals may be claimed whenever the amount in controversy exceeds two thousand dollars, and in other cases, on the certificate of the district judge that the adjudication involves a question of difficulty and general importance.

Ibid. § 7.

Appeals regulated.

The district courts are permanent prize tribunals, and take cognizance of questions of prize, by virtue of their general jurisdiction. The *Amy Warwick*, 24 Law Rep. 336, 494.

Property captured on the ocean, belonging to a permanent resident of a state in rebellion, is enemy's property, and lawful prize. Ibid. The *Lilla*, 25 Ibid. 81. The *Brilliant*, 11 Am. L. R. 336.

Where a neutral has a *jus in re*, where he is in possession with a right of retention until a certain amount be paid him, the captor takes *cum onere*, and should allow the amount of such right; but where the neutral has merely a *jus ad rem*, which he cannot enforce without the aid of a court of justice, his claim will not be recognised by a prize court. The *Amy Warwick*, 24 Law Rep. 501.

If a neutral owner of a portion of the property captured, claim another part which belongs to an enemy, for the purpose of de-

ceiving the court, the part belonging to the neutral will be condemned, as a penalty for his fraudulent conduct. The *Lilla*, 25 Law Rep. 81. And see The *Hattie Jackson and Cargo*, 18 Leg. Int. 348.

Whether property be liable to capture as enemy's property, does not in any manner depend on the personal allegiance of the owner; it is the illegal traffic that stamps it as enemy's property. The *Brilliant*, 11 Am. L. R. 336. The *Hawatha*, 18 Leg. Int. 332. United States v. The *Allegheny*, 10 Pittsburgh Leg. J. 276.

Captures, *jure belli*, upon the interior waters of the Mississippi river, may be within the jurisdiction of a prize court. United States v. Two Hundred and Sixty-nine and one-half Bales of Cotton, 25 Law Rep. 451.

Where prize courts take jurisdiction of captures, by combined land and naval forces, it must appear that the naval force contributed directly to the capture. Ibid.



## Public Buildings.

1. Commissioner to keep free from obstruction streets improved by the United States.

2. Penalty for placing obstructions in such streets. How recoverable.

12 June 1858 § 7.  
11 Stat. 326.

Commissioner to keep free from obstruction streets improved by the United States.

1. It shall be the duty of the commissioner of public buildings to cause obstructions of every kind to be removed from such streets, avenues and side-walks in the city of Washington as have been, or may be hereafter, improved in whole or in part by the United States, and to keep the same, at all times, free from obstructions; and, for this purpose, he shall have power to institute suits in any court having competent jurisdiction in the District of Columbia; and it shall be the duty of the district attorney for said district to prosecute the same. And whenever any person shall desire to remove the paving stones, or to displace any other work done by the authority of the United States, for the purpose of laying gas pipes, or for any other purpose, it shall be the duty of such person to obtain a written permit from the said commissioner; and such persons shall oblige themselves to replace the said work to the satisfaction of the said commissioner, and within such time as he may prescribe.

Ibid. § 8.

Penalty for placing obstructions in such streets.

2. If any person shall place [any] obstruction on the streets, avenues or side-walks aforesaid, such person shall pay the costs of removing the same, and shall moreover be subject to a penalty of ten dollars, to be recovered as other debts are recovered in the District of Columbia, for each and every day the said obstruction may remain after the commissioner shall have given notice for its removal. And if any person or persons removing the paving stones or other work done by the authority of the United States, shall fail to replace the same to the satisfaction of the commissioner, within the time prescribed by him, he or they shall be subject to a penalty of twenty-five dollars for each and every failure, and shall moreover pay the costs of replacing the same, the whole to be recovered before any court in the District of Columbia having competent jurisdiction; and this and the preceding section shall continue in force until repealed by congress.

How recoverable.

## Public Moneys.

### I. COLLECTION OF PUBLIC MONEYS.

1. Acts authorizing deduction of expenses from the revenue, before payment into the treasury, repealed.

### II. DISBURSEMENT OF PUBLIC MONEYS.

2. Collectors to act as disbursing agents. Compensation. Superintendents to disburse where there is no collector.

14 June 1858 § 2.  
11 Stat. 337.

Acts authorizing deduction of expenses from the revenue, before payment, repealed.

1. That from and after the said first day of July 1858, all laws and parts of laws which authorize the payment of the expenses, or any portion of the expenses of collecting the revenue from customs to any port or ports on the Pacific coast of the United States, out of the accruing revenue, before the same is paid into the treasury, shall be and hereby are repealed.

### II. DISBURSEMENT OF PUBLIC MONEYS.

12 June 1858 § 17.  
11 Stat. 337.

Collectors to act as disbursing agents.

Compensation.

Superintendents to disburse where there is no collector.

2. That the collectors of the customs in the several collection districts be, and they are hereby and hereafter, required to act as disbursing agents for the payment of all moneys that are or may hereafter be appropriated for the construction of custom-houses, court-houses, post offices and marine hospitals, with such compensation, not exceeding one-quarter of one per cent., as the secretary of the treasury may deem equitable and just: *And provided further*, That where there is no collector at the place of location of any public work herein specified, the superintendent of such public work shall act as disbursing agent without any additional compensation therefor: and all laws and parts of laws in conflict with the provisions of this section be and the same are hereby repealed.

## Railroads.

### 1. Acts giving a right of way through the public lands extended.

1. That the provisions of the act entitled "An act to grant the right of way to all rail and plank roads, and macadamized turnpikes passing through the public lands belonging to the United States," approved August 4th 1852, (a) and of the act extending the same to all of the public lands of the United States, approved March 3d 1855, (b) be and the same are hereby extended for the term of five years from the 4th day of August 1862.

15 July 1862 § 1.  
12 Stat. 577.

Acts giving a right of way through the public lands extended.

(a) Ante 812, pl. 1.

(b) Ante 812, pl. 4.

## Reporter.

### 1. Distribution of reports.

1. One copy of the decisions of the Supreme Court, published by authority of the act of 29th August 1842, (a) shall be deposited in the office of the secretary of the interior, and one copy sent to each of the judges and to the solicitor of the court of claims, the judges of the criminal and orphans' courts for the District of Columbia, the commissioner of customs, the commissioner of patents, and to the heads of such other executive offices of equal grade as have been established since the passage of the law distributing said decisions, and to such as may hereafter be provided for, each of whom shall likewise be entitled to receive one copy of the Statutes at Large.

2 March 1861 § 6.  
12 Stat. 245.

Distribution of reports.

(a) Ante 812, pl. 1.

## Revenue Cutters.

1. Pay of officers.
2. Number of officers.
3. Service.
4. Sale and substitution of vessels.
5. Additional engineers.

6. Charter and purchase of vessels.
7. Officers to be confirmed by the senate.
8. Grades of engineers.
9. Wages of petty officers and crew.
10. Relative rank.

1. The compensation of the officers of the revenue cutters shall be at the following rates, to wit:

25 July 1861 § 1.  
12 Stat. 275.

Pay of officers.

*Duty pay.*—Captains, eighteen hundred dollars per annum.

First lieutenants, fourteen hundred dollars per annum.

Second lieutenants, twelve hundred dollars per annum.

Third lieutenants, nine hundred dollars per annum.

*Leave of absence or waiting orders pay.*—Captains, twelve hundred dollars per annum.

First lieutenants, one thousand dollars per annum.

Second lieutenants, eight hundred dollars per annum.

Third lieutenants, seven hundred dollars per annum.

2. The number of officers for each revenue vessel shall be one captain and three lieutenants, first, second and third; and of a steam-vessel, one engineer and one assistant engineer, and such number of petty officers and men as in the opinion of the secretary of the treasury may be required to make the vessels efficient for the duties required of them: *Provided*, That the secretary of the treasury shall have the power to assign any greater number of officers than is herein prescribed, should the nature of the service to which any vessel may be assigned in his opinion require it.

Ibid. § 2.

Number of officers.

3. The secretary of the treasury shall have the power to direct the performance of any service by the revenue vessels which in his judgment may be necessary for the protection of the revenue.

Ibid. § 3.

Service.

4. The secretary of the treasury may, at his discretion, dispose of any of the vessels now belonging to the revenue marine, which in his opinion are unsuitable for service, and to substitute therefor such other vessels as the advanced naval architecture and the

Ibid. § 4.

Sale and substitution of vessels.

25 July 1861.  
Ibid. § 6.  
Additional en-  
gineers.  
3 Aug. 1861 § 1.  
12 Stat. 288.  
Charter and pur-  
chase of vessels.

4 Feb. 1863 § 1.  
12 Stat. 639.  
Ibid. § 2.  
Engineers.  
Ibid. § 3.  
Wages.  
Ibid. § 4.  
Relative rank.

increased wants of the service demand: *Provided*, That no expenditure shall be incurred beyond the specific appropriation therefor.

5. There may be appointed such number of additional engineers and assistant engineers as may be required by the steamers now or hereafter in the service.

6. That the act of 3d March 1845, (a) entitled "An act relating to revenue cutters and steamers," be and the same is so far suspended as to allow the secretary of the treasury to apply so much of the appropriation for the collection of the revenue as he may deem expedient to the charter or purchase of vessels for the revenue service: *Provided*, That no liability shall be incurred for the purposes herein named, which, together with the expenses of collecting the revenue, shall exceed the appropriation already made for the latter object.

7. The commissioned officers of the United States revenue cutter service shall be appointed by the president, by and with the advice and consent of the senate.

8. The grades of engineers shall be chief engineers, first and second engineers, with the pay and relative rank of first, second and third lieutenants, respectively.

9. The wages of petty officers and crew shall not exceed the average wages paid for like services on the Atlantic or Pacific coasts, respectively, in the merchant service.

10. The officers of the revenue cutter service, when serving in accordance with law, as part of the navy, shall be entitled to relative rank, as follows: captains, with and next after lieutenants commanding in the navy; first lieutenants, with and next after lieutenants in the navy; second lieutenants, with and next after masters in line in the navy; third lieutenants, with and next after passed midshipmen in the navy: *Provided*, That no change of rank by this bill shall increase the pay to which such officer is now entitled by law.

(a) Ante 815, pl. 11.

## Ships and Shipping.

1. Act 3 March 1825 § 5 repealed.

2. Act 5 March 1856 repealed.

17 June 1858 § 1.  
11 Stat. 318.  
Act 3 March 1825  
§ 5 repealed.

11 Jan. 1859 § 1.  
11 Stat. 375.

Act 5 March 1856  
repealed.

1. That the fifth section of "An act to authorize the register or enrolment and license to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," approved March 3d 1825, (a) be and the same is hereby repealed.

2. That the act entitled "An act authorizing the secretary of the treasury to change the names of vessels in certain cases," approved 5th March 1856, (b) be and the same is hereby repealed.

(a) Ante 833, pl. 40; 848, pl. 7.

(b) Ante 833, pl. 43.

The registry acts do not require a disclosure of the equitable title of the vessel registered or enrolled, unless that title be in the subject of a foreign state. *Scudder v. Calais Steamboat Co.*, 20 Law Rep. 498.

A fire occurring on the wharf, after the goods are landed, is not within the act 3 March 1851 (834, pl. 49) relieving shipowners from liability for damage by fire on board of vessels in certain cases. *Salmon Falls Manufacturing Co. v. The Bark Tangier*, 21 Law Rep. 6. And see *Morewood v. Pollok*, 18 Eng. L. & Eq. 341; s. c. 1 Com. Law Rep. 78, decided under the act of 28 Geo. 3, ch. 86, from which this provision in the act of congress is copied. See also *The Bark Edwin*, 23 Law Rep. 277.

The act 3 March 1851 (834, pl. 49) applies to vessels navigating the lakes, which are not within the exception contained in the 7th section. *American Transportation Co. v. Moore*, 5 Mich. 368; s. c. 24 How. 1. See *The Niagara v. Cordes*, 21 How. 26.

It exempts the owner from any loss or damage whatever accruing without his privity, such as damage by collision to amount not exceeding the value of the vessel and freight. *Ibid*.

The act of 3 March 1851 § 4 (835, pl. 32) does not enable the owner of a vessel to surrender, and protect himself from further liability, in a suit in personam, by a consignee, for damages sus-

tained in consequence of the vessel springing a leak by reason of unseaworthiness. *Sinclair's Case*, 8 Am. L. R. 206. And see *Pope v. Nickerson*, 3 Story 496; *Stinson v. Wyman*, Davels 172; *The Rebecca*, Ware 197; *Watson v. Marks*, 2 Am. L. R. 157.

The act of 1851 creates no new liability; its effect is merely to limit the liability of those who were previously liable for the tortious acts of the master, mariners and passengers on board their vessel. *Walker v. Boston Insurance Co.*, 23 Law Rep. 603. *Spring v. Haskell*, *Ibid*. 661.

In cases of collision, the value of the vessel is to be estimated in the condition in which it was immediately before the occurrence of the collision. *Walker v. Boston Insurance Co.*, 23 Law Rep. 603. And no deduction is to be made from the value of the ship on account of a pre-existing incumbrance on it. *Spring v. Haskell*, *Ibid*. 661.

It is sufficient, under the act of 29 July 1850 (833, pl. 44), that the mortgage of a vessel be recorded at the custom-house of her home port, where she is permanently registered or enrolled, although sailing under temporary documents issued by the collector of another district. *The Martha Washington*, 25 Law Rep. 22.

## Slave Trade.

1. Contracts to be made for reception of captured negroes.
2. Instructions to be issued to commanders of armed vessels.
3. Appointment of judges and arbitrators under the treaty with Great Britain.
4. Their salaries.
5. Registrar for New York. Duties of marshal.
6. President may enter into contracts for the reception of captured slaves.
7. Duties of commanders of public vessels.

1. It shall and may be lawful for the president of the United States to enter into contract with any person or persons, society or societies, or body corporate, for a term not exceeding five years, to receive from the United States, through their duly constituted agent or agents upon the coast of Africa, all negroes, mulattoes or persons of color, delivered from on board vessels seized in the prosecution of the slave trade, by commanders of the United States armed vessels; and to provide the said negroes, mulattoes and persons of color with comfortable clothing, shelter and provisions for a period not exceeding one year from the date of their being landed on the coast of Africa, at a price in no case to exceed one hundred dollars for each person so clothed, sheltered and provided with food: *Provided*, That any contract so made as aforesaid may be renewed by the president, from time to time, as found necessary, for periods not to exceed five years on each renewal.

16 June 1860 § 1.  
12 Stat. 40.

Contracts to be made for reception of captured negroes.

2. That the president of the United States be and he is hereby authorized to issue instructions to the commanders of the armed vessels of the United States, directing them, whenever it shall be practicable, and under such rules and regulations as he may prescribe, to proceed directly to the coast of Africa, and there deliver to the agent or agents of the United States all negroes, mulattoes and persons of color delivered from on board vessels seized in the prosecution of the slave trade, afterwards bringing the captured vessels and persons engaged in prosecuting the slave trade to the United States for trial and adjudication.

*Ibid.* § 2.

Instructions to be issued to commanders of armed vessels.

3. That, to carry into effect the provisions of the treaty between the United States and her Britannic majesty for the suppression of the African slave trade, the president be and he is hereby authorized to nominate, and by and with the advice and consent of the senate to appoint, a judge and also an arbitrator on the part of the United States to reside at New York; a judge and also an arbitrator to reside at Sierra Leone; and a judge and also an arbitrator to reside at the Cape of Good Hope.

11 July 1862 § 1.  
12 Stat. 531.

Appointment of judges and arbitrators under treaty with Great Britain.

4. The said judge at New York shall be paid at the rate of two thousand five hundred dollars, and the said arbitrator there at the rate of one thousand dollars a year; and the said judges at Sierra Leone and the Cape of Good Hope shall be paid at the rate of two thousand five hundred dollars a year respectively, and the said arbitrators at these two places at the rate of two thousand dollars a year respectively; the said salaries to begin with the acceptance of their commissions by the said judges and arbitrators respectively.

*Ibid.* § 2.

Their salaries.

5. The judge of the court at New York, whose appointment is authorized by this act, shall have power to appoint a clerk or registrar to the said court, who shall receive such fees for his services as are allowed by law to the clerk of the court of the United States for the southern district of New York for similar services. And it shall be the duty of the marshal of the southern district of New York, and he is hereby authorized to serve all processes and execute all orders and decrees of the said court, for which he shall be allowed fees in the discretion of the judge of the said court.

*Ibid.* § 3.

Registrar for New York.

Duties of marshal

6. It shall and may be lawful for the president of the United States to enter into arrangement, by contract or otherwise, with one or more foreign governments having possessions in the West Indies or other tropical regions, or with their duly constituted agent or agents, to receive from the United States, for a term not exceeding five years, at such place or places as shall be agreed upon, all negroes, mulattoes or persons of color, delivered from on board vessels seized in the prosecution of the slave trade by commanders of United States armed vessels, and to provide them with suitable instruction, and with comfortable clothing and shelter, and to employ them at wages, under such regulations as shall be agreed upon, for a period not exceeding five years from the date of their being landed at the place or places agreed upon: *Provided*, That the United States incur no expenses on account of said negroes, mulattoes or persons of color, after having landed them at the place or places agreed upon: *And provided further*, That any arrangement so made as aforesaid may be renewed by the president of the United States, from time to time, as may be found necessary or desirable, for periods not exceeding five years on each renewal.

17 July 1862 § 1.  
12 Stat. 592.

President may enter into contracts for the reception of captured slaves.

7. That the president of the United States be and he is hereby authorized to issue in-

*Ibid.* § 2.

17 July 1862.

Duties of commanders of public vessels.

tions to the commanders of the armed vessels of the United States, directing them, whenever it shall be practicable, and under such rules and regulations as he shall prescribe, to proceed directly to such place or places as shall have been agreed upon with any foreign government, or its duly constituted agent or agents, under the provisions of the first section of this act, and there deliver to the duly constituted authorities, or agents of such foreign governments, all negroes, mulattoes or persons of color, delivered from on board vessels seized in the prosecution of the slave trade, afterwards taking the vessel and persons engaged in prosecuting the slave trade to the proper place for trial and adjudication.

The 7th section of the act 20 April 1818 (840, pl. 22) does not extend to offences committed in a state against the rights of a negro, previously unlawfully imported by some other person, after he has passed out of the possession or control of the importer, and become mingled with the mass of the population of the state. *United States v. Gould*, 8 Am. L. R. 525. But see *United States v. Haun*, *Ibid.* 663.

An indictment does not lie under that section; the proper mode of procedure for enforcing the penalty is a *qui tam* action. *Ibid.*

Under the 2d section of the act 20 April 1818 (839; pl. 17) it is not necessary, in order to subject a vessel to forfeiture, that the fitting out should be complete, nor that it should be peculiarly adapted to the slave trade, if the illegal intent be otherwise shown; but if the intent is to be inferred only from the character of the fitting, the latter must be such as to prove the illegal design. *The Yacht Wanderer*, *Sprague* 515.

Where any person, as master, fits out a vessel, with intent to employ her in the slave trade, she is liable to forfeiture, although the owner never authorized any such illegal enterprise, and was

ignorant of the master's intention. *Ibid.*

An indictment will lie, under the 6th section of the act 20 April 1818 (840, pl. 21), against one who holds, sells or disposes of, as a slave, an African illegally imported. *United States v. Haun*, 8 Am. L. R. 663.

It has been held, that in order to constitute the capital offence, punishable as piracy, under the act 15 May 1820 (842, pl. 31-2), there must be the seizing, &c., of a negro, *not then in a state of servitude*, with intent to make him a slave. There can exist no intent to make a slave of one, already in a state of servitude. *United States v. Corrie*, 23 Law Rep. 145.

Under the act of 1820, the jurisdiction of the district court for the district wherein the accused may first be brought or found, is exclusive. *Ibid.*

The captors' moiety of the proceeds of a vessel condemned for being engaged in the slave trade, under the act of 3 March 1819 (841, pl. 26), is not to be paid into the treasury under the act of 3 March 1849 (301 pl. 10), but is to be distributed by the court. *The Glamorgan*, *Sprague* 273.

## South Carolina.

### I. CIRCUIT COURT.

1. Spring term of the circuit court.

### II. DISTRICT COURTS.

2. Terms in the eastern district.

### III. COLLECTION DISTRICTS.

3. Port Royal to be a port of entry. Officers of the customs.

### I. CIRCUIT COURT.

10 Feb. 1856 § 2.  
11 Stat. 260.

Spring term.

1. The term of the circuit court of the United States for South Carolina, at its sitting in Charleston, shall be held on the first Monday in April, in each and every year, instead of at the time heretofore appointed.

### II. DISTRICT COURTS.

10 Feb. 1856 § 1.  
11 Stat. 260.

Terms in the eastern district.

2. The terms of the district court of the United States for South Carolina, at its sitting in Charleston, shall be held on the first Monday in January, May, July and October, in each and every year, instead of at the times heretofore appointed.

### III. COLLECTION DISTRICTS.

13 May 1862 § 1.  
12 Stat. 385.

Port Royal to be a port of entry.

Officers of the customs.

3. A port of entry and delivery shall be and is hereby established in the collection district of Beaufort, in the state of South Carolina, at or near Hilton Head, to be called the port of Port Royal, which shall be subject to the same regulations and restrictions as other ports of entry and delivery in the United States; and there shall be appointed a collector of the customs, to reside at said port, who shall receive a salary of fifteen hundred dollars per annum. And the secretary of the treasury shall have power to appoint, on the nomination of the collector, such inspectors, weighers, gaugers, measurers and other officers as may be necessary for the collection of the revenue at said port, whose compensation shall not exceed the rates allowed to similar officers at other ports of entry and delivery in the United States.

## Steamboats.

The act 30 August 1862 (840, pl. 12) does not apply to a steamboat employed in the transportation of merchandise exclusively. *United States v. The Sun*, 10 Am. L. R. 277. Nor to one engaged in the transportation of passengers between ports of the same state. *United States v. The Seneca*, *Ibid.* 281.

A vessel with passengers navigating between the ports of Pitts-

burgh and Gallipolis, having but one licensed pilot on board, the captain acting also as pilot, does not incur the penalty for navigating without the complement of licensed pilots required by the act. *United States v. The Science*, 11 Pittsburgh Leg. J. 3; reversing *s. c.* 20 Leg. Int. 68, and 10 Pittsburgh Leg. J. 303.

## Supreme Court.

1. Proceedings where both parties appeal.
2. Additional judge to be appointed.

3. Travelling expenses in tenth circuit.

1. In all cases of appeal, which have been or may hereafter be duly taken by both parties from the judgment or decree of any district or circuit court to the supreme court of the United States, a transcript of the record filed in the supreme court of the United States by either party, on his appeal, may be used on both appeals; and whenever in such cases one record shall have been or may hereafter be filed by either party in the said supreme court, both appeals shall be heard thereon by the court in the same manner as if records had been filed by the appellants in both cases.

2. The supreme court of the United States shall hereafter consist of a chief justice and nine associate justices, any six of whom shall constitute a quorum; and for this purpose there shall be appointed one additional associate justice of said court, with the like powers, and to take the same oaths, perform the same duties, and be entitled to the same salary as the other associate justices.

3. The judge assigned to the tenth circuit, as constituted by this act, shall receive, in addition to his salary hereinbefore provided, the sum of one thousand dollars for his travelling expenses for each year in which he may actually attend a session of the supreme court of the United States.

6 Aug. 1861 § 1.  
12 Stat. 319.

Proceedings  
where both parties appeal.

3 March 1863 § 1.  
12 Stat. 794.

Additional judge  
to be appointed.

Ibid. § 5.

Travelling  
expenses in 10th  
circuit.

## Taxes.

### I. DIRECT TAXES.

1. Direct taxes on the several states, &c.
2. Collection districts. Assessors and collectors.
3. Collectors' bonds.
4. Assessment districts. Assistant assessors. Oath. Certificate. Penalty for acting without being sworn.
5. Regulations and instructions.
6. Tax to be assessed on value of real estate. Exemptions. Valuation.
7. Property-owners to deliver lists to assistant assessors.
8. Or officer to make such list on information.
9. Penalty for fraudulent return of property. How list to be made out in such case.
10. Notice to be left at residence of owner, if absent.
11. Proceedings on neglect of owner to make return.
12. How property of absent owners to be assessed.
13. Assessment of property in other districts. Returns to be transmitted to the proper district.
14. Duties of assistant assessors. General lists of residents and non-residents. Forms. Lists to be delivered to assessors. Penalty on assistant assessor for neglect of duty.
15. Assessors to give public notice of appeals. Appeals. Form of appeal. Power of assessors on appeal.
16. Equalization of valuation in different collection districts.
17. Board of assessors to be convened. Their powers and duties.
18. To appoint clerks. Oath. Penalty for neglect of duty.
19. Duties of clerks. Penalty on assessors for neglect of duty. Secretary may remit penalty.
20. Board of assessors to make final adjustment of valuation.
21. Their powers to revise and adjust. Relative valuation not to be changed, except for manifest error. Reports to congress.
22. Board to apportion the tax among the several counties. Assessors to revise their lists accordingly. What such lists to contain. Copy to be certified to collectors. Penalty for neglect of duty. Valuation to continue until altered by law.
23. Compensation of assessors and assistant assessors. Allowance for stationery, &c.
24. Collectors to give three receipts for lists. How disposed of.
25. Collectors to give bonds. Condition.
26. Lien of taxes.
27. Appointment of deputy collectors. Collectors to be responsible for their acts.
28. Collectors to give public notice to pay taxes. Demand. Unpaid taxes to be distrained for. Proceedings on distress. Property distrained to be restored on payment of tax. To be sold in case of non-payment. What property to be exempt from distress.
29. If no personal property, real estate to be sold. Proceedings on sale of real estate for taxes. When to be purchased for the government. Payment after notice of sale. Right of redemption. When deed to be delivered. Form of deed. Fees.
30. Collection of taxes from non-residents. Advertisements.
31. Real estate of non-residents to be sold after one year.
32. Lists of property sold for taxes to be deposited with clerks of district courts. Right of redemption. Deeds. Fees. Persons under disability to have further time to redeem. Compensation for improvements. Costs.

33. Collectors to make monthly statements. To pay quarterly. Final account.
34. Collectors to be charged with amount of tax lists. Credits.
35. Proceedings against delinquent collectors. Levy on personal property. Arrest of the person. Lien on lands. Sale of real estate.
36. Penalty for extortion.
37. How accounts to be kept at the treasury. Reports to congress.
38. Transfers and changes of title to be ascertained. Lists thereof to be made out. Collectors to conform thereto.
39. Proceedings where a state neglects to pay after assuming its quota of the tax.
40. False swearing to be deemed perjury.
41. Compensation of collectors. Stationery.
42. Secretary to select depositaries.
43. Collection of taxes in states in rebellion.
44. Each state may collect and pay its own quota. Discount thereon. In such case, no officers to be appointed. May be paid by release of claims against the government.
45. Duties of collectors. Collection of penalties.
46. Lien on property of collectors and their sureties.
47. Commissioner of taxes to be appointed. Salary. Clerks.
48. When deputy may act for collector.
49. Who to act as collector in case of vacancy.
50. Taxes to be charged on lands in insurrectionary districts. Appointment.
51. President to proclaim what districts are in insurrection. Lien of taxes.
52. Owners may pay and be discharged.
53. Title to lands on which tax is imposed to vest in the United States.
54. Tax commissioners to be appointed. Salaries.
55. When to enter upon their duties.
56. To advertise lands for sale. Sales regulated. Payment of purchase-money. Right of redemption. Exception in favor of persons under disabilities. Effect of certificate.
57. Further time for redemption in certain cases. Appeal from decision of commissioners. Jurisdiction of the district courts.
58. Commissioners may lease lands in certain cases.
59. Conditions of lease.
60. Commissioners may sell instead of leasing. Who may become purchasers. Right of redemption.
61. Proceeds, how disposed of.
62. How lands to be valued, in case of lost assessment.
63. Tax books to be kept. Transcripts to be filed in the treasury department. Clerk of commissioners.
64. What property to be exempt.
65. But one direct tax to be imposed before 1866.

### II. COLLECTION OF INTERNAL REVENUE.

66. Commissioner of internal revenue to be appointed. Salary. His duties. Clerks. Franking privilege.
67. Collection districts. Assessors and collectors. Number of districts limited.
68. Assessment districts. Oath of assessors. Penalty for acting without being sworn.
69. Collectors to give bond. Condition. When to be renewed.
70. Appointment of deputy collectors. Their powers. Responsibility of collectors.

71. Returns of taxable property to be made to assistant assessors.
  72. Duties of assistant assessors.
  73. When assistant assessors to make out return from information.
  74. Penalty for making fraudulent return. Assessment, how made, in such cases. To be without appeal.
  75. Notice to be left for absent persons.
  76. How assessment to be made, in case of neglect to make return. Penalty.
  77. How property of non-residents to be assessed.
  78. Non-resident owners may make returns of their taxable property. Proceedings thereon.
  79. General returns to be made out. Forms of general returns. Penalty for neglect.
  80. Assessors to give public notice where tax lists may be examined. Appeals. To be in writing. Powers of assessors on appeal.
  81. Collection lists to be made out. Form thereof. List of property of non-residents. Where lists to be furnished to collectors. Penalty for neglect.
  82. Compensation of assessors and assistant assessors. Stationery.
  83. Collectors to give triplicate receipts. How disposed of.
  84. Collectors to give public notice. Penalty for neglect to pay within time prescribed. Collectors to make demand. To collect by distress and sale. Proceedings on distraint. Goods distrained to be released on payment of taxes and expenses. Sales regulated. What property to be exempt.
  85. Proceedings where property is not divisible. Collector to purchase for the government. Sales of property so purchased.
  86. In default of personal property, real estate to be seized. Proceedings in such cases. Sales regulated. When collector to purchase for the government. Deeds. To be evidence of facts recited. Right of redemption. Lands in other districts may be sold. Record of sales. Where deposited. Record of redemption.
  87. Collection of taxes on property of non-residents within the United States.
  88. Collectors to make monthly returns. Final accounts to be rendered. Depositories to be selected.
  89. Collectors to be charged with whole amount of tax lists. What deductions to be allowed.
  90. Penalty for failure to collect. Distress-warrant to issue. Duties of marshal thereon. Proceedings against real estate.
  91. Penalty for extortion or wilful oppression.
  92. Power to enter on property. Penalty for refusal to admit.
  93. Penalty for obstructing officers.
  94. When deputy may act as collector.
  95. Who to act in case of death, resignation or removal of collector. Responsibility of sureties.
  96. Powers of collectors. Recovery of fines, &c. How distributed.
  97. False swearing to be deemed perjury.
  98. Accounts, how kept at the treasury.
  99. Compensation of collectors. Stationery.
  100. Proceedings where tax is wrongfully levied.
  101. Effect of bill of sale under distress.
  102. Execution of act in insurrectionary districts. Interest to be charged.
  103. Officers to collect the direct tax.
  104. Assessment of taxes on corporations.
  105. Articles liable to tax to be forfeited in default of payment. Proceedings to enforce forfeiture.
  106. Pay of officers.
  107. When law to be enforced.
  108. Power to administer oaths.
  109. Form of notices.
  110. No duty on certain articles manufactured prior to 1 Sept.
  1862. Duty on malt liquors until 1864. Deductions for leakage.
  111. Compensation of collectors.
  112. Accounts of commissioner of internal revenue.
  113. Deputy commissioner. Duties and salary.
  114. Revenue agents.
  115. Cashier of internal duties. Duties and salary. Bonds.
  116. Compensation of assessors. Office rent. Postage. Stationery.
  117. Assistant assessors to render monthly accounts.
  118. Duties illegally assessed may be refunded.
  119. Accounts of officers in California, Oregon and Nevada.
  120. Repealing and saving clauses.
- III. DUTIES ON SPIRITUOUS AND MALT LIQUORS.**
121. Collectors to grant licenses to distillers. Bond.
  122. Form of application.
  123. Duty on liquors distilled.
  124. How proof of liquors to be determined.
  125. Inspectors to be appointed. Inspection. Penalty for evasion of duties. Fees. Penalty for fraudulent marking.
  126. Bonded warehouses.
  127. Accounts to be kept of liquors distilled. When to be rendered to collectors. Accounts of grain, &c., used. Entries to be sworn to. Payment of duties.
  128. Permits to be granted for shipment of liquors. Bills of lading to be in name of collector. Collection of duties thereon.
  129. Removal of liquors, and refined coal oil, for exportation. Bond to be given. Oath. When bond to be cancelled. Proceedings in case of breach.
  130. Entries of distiller to be verified on oath. Form of oath.
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141. How application to be made. When license to issue.
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143. Form of license. To be restricted to the place mentioned.
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145. Auctioneers not to be at private sale, by virtue of auctioneers' license. Where auctioneers may sell. Not to apply to judicial sales, &c.
146. Transfer of licenses.
147. Rates of license.
148. Bankers.
149. Auctioneers.
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152. Retail dealers.
153. Wholesale dealers.
154. Pawnbrokers.
155. Rectifiers.
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159. Eating-houses.
160. Brokers.
161. Commercial brokers.
162. Land warrant brokers.
163. Tobacconists.
164. Theatres.
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167. Bowling alleys and billiard saloons.
168. Confectioners.
169. Horse dealers.
170. Livery stables.
171. Cattle brokers.
172. Tallow chandlers and soap makers.
173. Coal oil distillers.
174. Pedlars.
175. Apothecaries.
176. Manufacturers.
177. Photographers.
178. Lawyers.
179. Physicians, surgeons and dentists.
180. Claim agents.
181. Architects and civil engineers.
182. Builders and contractors.
183. Owners of stallions and jacks.
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191. Certain persons need not take out license.
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 229. Sails, tents, shades, awnings, &c.  
 230. Tobacco and snuff.  
 231. Mineral and other waters.  
 232. Tailors, shoemakers, &c.  
 233. Umbrellas and parasols.  
 234. Ships and vessels.  
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 277. Who to be supplied with stamps. Commission thereon. Discount on proprietary stamps. Allowance to be made for stamps rendered useless.  
 278. Commissioner to decide whether instrument be liable to stamp. Special stamp for such cases.  
 279. Telegraph companies not to send unstamped messages.  
 280. Act to apply to proprietary stamps.  
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 288. Official documents to be exempt from stamp duty.  
 289. Lottery tickets, &c., to be stamped. Penalty.  
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 291. When stamps to be supplied to collectors without prepayment. Bond to be given. Collector to supply deputies. Unstamped instruments executed prior to 1 June 1863 not to be invalid. To be stamped before being used in evidence. How stamped.  
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 303. Telegraphic dispatches.  
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 325. Legacy duty to be a lien. To be paid by executors. Account to be rendered. Penalty for neglect. Proceeding where there is no administration. Tax deeds. Papers to be exhibited. Penalty for refusal. Effect of recitals in deeds.

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#### I. DIRECT TAXES.

1. That a direct tax of twenty millions of dollars be and is hereby annually laid upon the United States, and the same shall be and is hereby apportioned to the states respectively, in manner following:

To the state of Maine, four hundred and twenty thousand eight hundred and twenty-six dollars.

To the state of New Hampshire, two hundred and eighteen thousand four hundred and six and two-third dollars.

To the state of Vermont, two hundred and eleven thousand and sixty-eight dollars.

5 Aug. 1861 § 8.  
 12 Stat. 294.

Direct taxes.

Maine.

New Hampshire.

Vermont.



5 August 1861.	To the state of Massachusetts, eight hundred and twenty-four thousand five hundred and eighty-one and one-third dollars.
Massachusetts.	To the state of Rhode Island, one hundred and sixteen thousand nine hundred and sixty-three and two-third dollars.
Rhode Island.	To the state of Connecticut, three hundred and eight thousand two hundred and fourteen dollars.
Connecticut.	To the state of New York, two million six hundred and three thousand nine hundred and eighteen and two-third dollars.
New York.	To the state of New Jersey, four hundred and fifty thousand one hundred and thirty-four dollars.
New Jersey.	To the state of Pennsylvania, one million nine hundred and forty-six thousand seven hundred nineteen and one-third dollars.
Pennsylvania.	To the state of Delaware, seventy-four thousand six hundred and eighty-three and one-third dollars.
Delaware.	To the state of Maryland, four hundred and thirty-six thousand eight hundred and twenty-three and one-third dollars.
Maryland.	To the state of Virginia, nine hundred and thirty-seven thousand five hundred and fifty and two-third dollars.
Virginia.	To the state of North Carolina, five hundred and seventy-six thousand one hundred and ninety-four and two-third dollars.
North Carolina.	To the state of South Carolina, three hundred and sixty-three thousand five hundred and seventy and two-third dollars.
South Carolina.	To the state of Georgia, five hundred and eighty-four thousand three hundred and sixty-seven and one-third dollars.
Georgia.	To the state of Alabama, five hundred and twenty-nine thousand three hundred and thirteen and one-third dollars.
Alabama.	To the state of Mississippi, four hundred and thirteen thousand eighty-four and two-third dollars.
Mississippi.	To the state of Louisiana, three hundred and eighty-five thousand eight hundred and eighty-six and two-third dollars.
Louisiana.	To the state of Ohio, one million five hundred and sixty-seven thousand eighty-nine and one-third dollars.
Ohio.	To the state of Kentucky, seven hundred and thirteen thousand six hundred and ninety-five and one-third dollars.
Kentucky.	To the state of Tennessee, six hundred and sixty-nine thousand four hundred and ninety-eight dollars.
Tennessee.	To the state of Indiana, nine hundred and four thousand eight hundred and seventy-five and one-third dollars.
Indiana.	To the state of Illinois, one million one hundred and forty-six thousand five hundred and fifty-one and one-third dollars.
Illinois.	To the state of Missouri, seven hundred and sixty-one thousand one hundred and twenty-seven and one-third dollars.(a)
Missouri.	To the state of Kansas, seventy-one thousand seven hundred and forty-three and one-third dollars.
Kansas.	To the state of Arkansas, two hundred and sixty-one thousand eight hundred and eighty-six dollars.
Arkansas.	To the state of Michigan, five hundred and one thousand seven hundred and sixty-three and one-third dollars.
Michigan.	To the state of Florida, seventy-seven thousand five hundred and twenty-two and two-third dollars.
Florida.	To the state of Texas, three hundred and fifty-five thousand one hundred and six and two-third dollars.
Texas.	To the state of Iowa, four hundred and fifty-two thousand and eighty-eight dollars.
Iowa.	To the state of Wisconsin, five hundred and nineteen thousand six hundred and eighty-eight and two-third dollars.
Wisconsin.	To the state of California, two hundred and fifty-four thousand five hundred and thirty-eight and two-third dollars.
California.	To the state of Minnesota, one hundred and eight thousand five hundred and twenty-four dollars.
Minnesota.	To the state of Oregon, thirty-five thousand one hundred and forty and two-third dollars.
Oregon.	To the territory of New Mexico, sixty-two thousand six hundred and forty-eight dollars.(b)
New Mexico.	To the territory of Utah, twenty-six thousand nine hundred and eighty-two dollars.
Utah.	

(a) See act 17 July 1862. 12 Stat. 600.

(b) See act 1 July 1862 § 118. 12 Stat. 488.

To the territory of Washington, seven thousand seven hundred and fifty-five and one-third dollars. 5 August 1861

To the territory of Nebraska, nineteen thousand three hundred and twelve dollars. Washington.

To the territory of Nevada, four thousand five hundred and ninety-two and two-third dollars. (a) Nebraska.

To the territory of Colorado, twenty-two thousand nine hundred and five and one-third dollars. Colorado.

To the territory of Dakota, three thousand two hundred and forty-one and one-third dollars. (b) Dakota.

To the District of Columbia, forty-nine thousand four hundred and thirty-seven and one-third dollars. District of Columbia.

2. For the purpose of assessing the above tax and collecting the same, the president of the United States be and he is hereby authorized to divide, respectively, the states and territories of the United States and the District of Columbia into convenient collection districts, and to nominate and, by and with the advice of the senate, to appoint an assessor and a collector for each such district, who shall be freeholders and resident within the same: *Provided*, That any of said states and territories, as well as the District of Columbia, may, if the president shall deem it proper, be erected into one district: *And provided further*, That the appointment of said assessors and collectors, or any of them, shall not be made until on or after the second Tuesday in February 1862. (c)

3. Before any such collector shall enter upon the duties of his office he shall execute a bond for such amount as shall be prescribed by the secretary of the treasury, with sureties to be approved as sufficient by the solicitor of the treasury, containing the condition that said collector shall justly and faithfully account for to the United States, and pay over, in compliance with the order or regulations of the secretary of the treasury, all public moneys which may come into his hands or possession; which bond shall be filed in the office of the first comptroller of the treasury, to be by him directed to be put in suit upon any breach of the condition thereof. And such collectors shall, from time to time, renew, strengthen and increase their official bonds, as the secretary of the treasury may direct.

4. Each of the assessors shall divide his district into a convenient number of assessment districts, within each of which he shall appoint one respectable freeholder to be assistant assessor; and each assessor and assistant assessor so appointed, and accepting the appointment, shall, before he enters on the duties of his appointment, take and subscribe, before some competent magistrate, or some collector, to be appointed by this act (who is hereby empowered to administer the same), the following oath or affirmation, to wit: "*I, A. B., do swear, or affirm (as the case may be), that I will, to the best of my knowledge, skill and judgment, diligently and faithfully execute the office and duties of assessor for (naming the assessment district), without favor or partiality, and that I will do equal right and justice in every case in which I shall act as assessor.*" And a certificate of such oath or affirmation shall be delivered to the collector of the district for which such assessor or assistant assessor shall be appointed. And every assessor or assistant assessor acting in the said office without having taken the said oath or affirmation shall forfeit and pay one hundred dollars, one moiety thereof to the use of the United States, and the other moiety thereof to him who shall first sue for the same; to be recovered, with costs of suit, in any court having competent jurisdiction.

5. The secretary of the treasury shall establish regulations suitable and necessary for carrying this act into effect; which regulations shall be binding on each assessor and his assistants in the performance of the duties enjoined by or under this act, and shall also frame instructions for the said assessors and their assistants; pursuant to which instructions the said assessors shall, on the first day of March next, direct and cause the several assistant assessors in the district to inquire after and concerning all lands, lots of ground, with their improvements, buildings and dwelling-houses, made liable to taxation under this act by reference as well to any lists of assessment or collection taken under the laws of the respective states, as to any other records or documents, and by all other lawful ways and means, and to value and enumerate the said objects of taxation in the manner prescribed by this act, and in conformity with the regulations and instructions above mentioned.

6. The said direct tax laid by this act shall be assessed and laid on the value of all lands and lots of ground, with their improvements and dwelling-houses, which several articles subject to taxation shall be enumerated and valued, by the respective assessors, at the rate each of them is worth in money on the first day of April 1862: *Provided, however*, That all property, of whatever kind, coming within any of the foregoing descriptions, and belonging to the United States or any state, or permanently or specially

(a) See *infra* 103.

(b) See act 25 February 1863 § 1. 12 Stat. 693.

(c) See *infra* 103.

- 6 August 1861. exempted from taxation by the laws of the state wherein the same may be situated at the time of the passage of this act, together with such property belonging to any individual, who actually resides thereon, as shall be worth the sum of five hundred dollars, shall be exempted from the aforesaid enumeration and valuation, and from the direct tax aforesaid: *And provided further*, That in making such assessment due regard shall be had to any valuation that may have been made under the authority of the state or territory at any period nearest to said first day of April.
- Valuation.
- Ibid.* § 14.  
Property-owners to deliver lists to assistant assessors.
7. The respective assistant assessors shall, immediately after being required as aforesaid by the assessors, proceed through every part of their respective districts, and shall require all persons owning, possessing or having the care or management of any lands, lots of ground, buildings or dwelling-houses, lying and being within the collection district where they reside, and liable to a direct tax as aforesaid, to deliver written lists of the same; which lists shall be made in such manner as may be directed by the assessor, and, as far as practicable, conformably to those which may be required for the same purpose under the authority of the respective states.
- Ibid.* § 15.  
Or officer to make such list on information.
8. If any person owning, possessing or having the care or management of property liable to a direct tax as aforesaid, shall not be prepared to exhibit a written list when required as aforesaid, and shall consent to disclose the particulars of any and all the lands and lots of ground, with their improvements, buildings and dwelling-houses, taxable as aforesaid, then, and in that case, it shall be the duty of the officer to make such list, which, being distinctly read and consented to, shall be received as the list of such person.
- Ibid.* § 16.  
Penalty for fraudulent return of property.
9. If any such person shall deliver or disclose to any assessor or assistant assessor appointed in pursuance of this act, and requiring a list or lists as aforesaid, any false or fraudulent list, with intent to defeat or evade the valuation or enumeration hereby intended to be made, such person so offending, and being thereof convicted before any court having competent jurisdiction, shall be fined in a sum not exceeding five hundred dollars, at the discretion of the court, and shall pay all costs and charges of prosecution. And the valuation and enumeration required by this act shall, in all such cases, be made as aforesaid, upon lists according to the form above described, to be made out by the assessors and assistant assessors respectively; which lists the said assessors are hereby authorized and required to make according to the best information they can obtain, and for the purpose of making which they are hereby authorized to enter into and upon all and singular the premises respectively; and from the valuation and enumeration so made there shall be no appeal.
- Ibid.* § 17.  
Notice to be left at residence of owner, if absent.
10. In case any person shall be absent from his place of residence at the time an assessor shall call to receive the list of such person, it shall be the duty of such assessor or assistant assessor to leave at the house or place of residence of such person, with some person of suitable age and discretion, a written note or memorandum requiring him to present to such assessor the list or lists required by this act, within ten days from the date of such note or memorandum.
- Ibid.* § 18.  
Proceedings on neglect of owner to make return.
11. If any person, on being notified or required as aforesaid, shall refuse or neglect to give such list or lists as aforesaid, within the time required by this act, it shall be the duty of the assessor for the assessment district within which such person shall reside, and he is hereby authorized and required, to enter into and upon the lands, buildings, dwelling-houses and premises, if it be necessary, of such persons so refusing or neglecting, and to make, according to the best information which he can obtain, and on his own view and information, such lists of the lands and lots of ground, with their improvements, buildings and dwelling-houses, owned or possessed, or under the care or management of such person, as are required by this act; which lists so made and subscribed by such assessor shall be taken and reputed as good and sufficient lists of the persons and property for which such person is to be taxed for the purposes of this act.
- Ibid.* § 19.  
How property of absent owner to be assessed.
12. Whenever there shall be in any assessment district any property, lands and lots of ground, buildings or dwelling-houses, not owned or possessed by, or under the care and management of, any person or persons within such district, and liable to be taxed as aforesaid, and no list of which shall be transmitted to the assessor in the manner provided by this act, it shall be the duty of the assessor for such district, and he is hereby authorized and required, to enter into and upon the real estate, if it be necessary, and take such view thereof and make lists of the same, according to the form prescribed, which lists, being subscribed by the said assessor, shall be taken and reputed as good and sufficient lists of such property, under and for the purposes of this act.
- Ibid.* § 20.  
Assessment of property in other districts.
13. The owners, possessors or persons having the care or management of lands, lots of ground, buildings and dwelling-houses, not lying or being within the assessment district in which they reside, shall be permitted to make out and deliver the lists thereof required by this act (provided the assessment district in which the said objects of taxation lie or be is therein distinctly stated), at the time and in the manner prescribed, to

the assessor of the assessment district wherein such persons reside. And it shall be the duty of the assessors, in all such cases, to transmit such lists, at the time and in the manner prescribed for the transmission of the lists of the objects of taxation lying and being within their respective assessment districts, to the assessor of the collection district wherein the said objects of taxation shall lie or be, immediately after the receipt thereof; and the said lists shall be valid and sufficient for the purposes of this act; and on the delivery of every such list, the person making and delivering the same shall pay to the assessor one dollar, which he shall retain to his own use.

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Returns to be transmitted to the proper district.

14. The lists aforesaid shall be taken with reference to the day fixed for that purpose by this act as aforesaid; and the assistant assessors, respectively, after collecting the said lists, shall proceed to arrange the same, and to make two general lists; the first of which shall exhibit, in alphabetical order, the names of all persons liable to pay a tax under this act residing within the assessment district, together with the value and assessment of the objects liable to taxation within such district for which each such person is liable, and, whenever so required by the assessor, the amount of direct tax payable by each person on such objects under the state laws imposing direct taxes; and the second list shall exhibit, in alphabetical order, the names of all persons residing out of the collection district, owners of property within the district, together with the value and assessment thereof, with the amount of direct tax payable thereon as aforesaid. The forms of the said general list shall be devised and prescribed by the assessor, and lists taken according to such form shall be made out by the assistant assessors, and delivered to the assessor within sixty days after the day fixed by this act as aforesaid, requiring lists from individuals. And if any assistant assessor shall fail to perform any duty assigned by this act, within the time prescribed by his precept, warrant or other legal instructions, not being prevented therefrom by sickness or other unavoidable accident, every such assistant assessor shall be discharged from office, and shall, moreover, forfeit and pay two hundred dollars, to be recovered for the use of the United States, in any court having competent jurisdiction, with costs of suit.

Ibid. § 21.

Duties of assistant assessors.

General lists of residents and non-residents.

Forms.

Lists to be delivered to assessors.

Penalty on assistant assessor for neglect of duty.

15. Immediately after the valuations and enumerations shall have been completed as aforesaid, the assessor in each collection district shall, by advertisement in some public newspaper, if any there be in such district, and by written notifications to be publicly posted up in at least four of the most public places in each collection district, advertise all persons concerned of the place where the said lists, valuations and enumerations may be seen and examined; and that during twenty-five days after the publication of the notifications as aforesaid, appeals will be received and determined by him relative to any erroneous or excessive valuations or enumerations by the assessor. And it shall be the duty of the assessor in each collection district, during twenty-five days after the date of publication to be made as aforesaid, to submit the proceedings of the assistant assessors and the list by them received or taken as aforesaid to the inspection of any and all persons who shall apply for that purpose; and the said assessors are hereby authorized to receive, hear and determine, in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assessors: *Provided always*, That it shall be the duty of said assessor to advertise and attend, not less than two successive days of the said twenty-five, at the court-house of each county within his collection district, there to receive and determine upon the appeals aforesaid: *And provided also*, That the question to be determined by the assessor, on an appeal respecting the valuation of property, shall be, whether the valuation complained of be or be not in a just relation or proportion to other valuations in the same collection districts. And all appeals to the assessors as aforesaid shall be made in writing, and shall specify the particular cause, matter or thing respecting which a decision is requested; and shall, moreover, state the ground or principle of inequality or error complained of. And the assessor shall have power to re-examine and equalize the valuations as shall appear just and equitable; but no valuation shall be increased without a previous notice, of at least five days, to the party interested, to appear and object to the same, if he judge proper; which notice shall be given by a note in writing, to be left at the dwelling-house of the party by such assessor or an assistant assessor.

Ibid. § 22.

Assessor to give public notice of appeals.

Appeals.

Form of appeal.

Power of assessor on appeal.

16. Whenever a state, territory, or the District of Columbia shall contain more than one collection district, the assessors shall have power, on examination of the lists rendered by the assistant assessors, according to the provisions of this act, to revise, adjust and equalize the valuation of lands and lots of ground, with their improvements, buildings and dwelling-houses, between such collection districts, by deducting from or adding to either such a rate per centum as shall appear just and equitable.

Ibid. § 23.

Equalization of valuation in different collection districts.

17. The assessors shall, immediately after the expiration of the time for hearing and deciding appeals, make out correct lists of the valuation and enumeration in each collection district, and deliver the same to the board of assessors hereinafter constituted

Ibid. § 24.

Board of assessors to be convened.

5 August 1861.	in and for the states respectively. And it shall be the duty of the assessors in each state to convene in general meeting at such time and place as shall be appointed and directed by the secretary of the treasury. And the said assessors or a majority of them, so convened, shall constitute and they are hereby constituted a board of assessors for the purposes of this act, and shall make and establish such rules and regulations as to them shall appear necessary for carrying such purposes into effect, not being inconsistent with this act or the laws of the United States.
Their powers and duties.	
Ibid. § 25.	18. The said board of assessors, convened and organized as aforesaid, shall and may appoint a suitable person or persons to be their clerk or clerks, but not more than one for each collection district, who shall hold his or their office or offices at the pleasure of said board of assessors, and whose duty it shall be to receive, record and preserve all tax lists, returns and other documents delivered and made to the said board of assessors, and who shall take an oath (or affirmation if conscientiously scrupulous of taking an oath) faithfully to discharge his or their trust; and in default of taking such oath or affirmation, previous to entering on the duties of such appointment, or on failure to perform any part of the duties enjoined on him or them respectively by this act, he or they shall respectively forfeit and pay the sum of two hundred dollars for the use of the United States, to be recovered in any court having competent jurisdiction, and shall also be removed from office.
To appoint clerks	
Oath.	
Penalty for neglect of duty.	
Ibid. § 26.	19. It shall be the duty of the said clerks to record the proceedings of the said board of assessors, and to enter on the record the names of such of the assessors as shall attend any general meeting of the board of assessors for the purposes of this act. And if any assessor shall fail to attend such general meeting, his absence shall be noted on the said record, and he shall, for every day he may be absent therefrom, forfeit and pay the sum of ten dollars for the use of the United States. And if any assessor shall fail or neglect to furnish the said board of assessors with the lists of valuation and enumeration of each assessment district within his collection district within three days after the time appointed as aforesaid for such general meeting of the said board of assessors, he shall forfeit and pay the sum of five hundred dollars for the use of the United States, and moreover shall forfeit his compensation as assessor. And it shall be the duty of the clerks of the said board of assessors to certify to the secretary of the treasury an extract of the minutes of the board, showing such failures or neglect, which shall be sufficient evidence of the forfeiture of such compensation to all intents and purposes: <i>Provided always</i> , That it shall be in the power of the secretary of the treasury to exonerate such assessor or assessors from the forfeiture of the said compensation, in whole or in part, as to him shall appear just and equitable.
Duties of clerks.	
Penalty on assessor for neglect of duty.	
Secretary may remit penalty.	
Ibid. § 27.	20. If the said board of assessors shall not, within three days after the first meeting thereof as aforesaid, be furnished with all the lists of valuation of the several counties and state districts of any state, they shall nevertheless proceed to make out the equalization and apportionment by this act directed, and they shall assign to such counties and state districts, the valuation lists of which shall not have been furnished, such valuation as they shall deem just and right; and the valuation thus made to such counties and state districts by the board of assessors shall be final, and the proper quota of direct tax shall be and is hereby declared to be imposed thereon accordingly.
Board of assessors to make final adjustment of valuation.	
Ibid. § 28.	21. It shall be the duty of the said board of assessors diligently and carefully to consider and examine the said lists of valuation, and they shall have power to revise, adjust and equalize the valuation of property in any county or state district, by adding thereto or deducting therefrom such a rate per centum as shall, under the valuation of the several counties and state districts, be just and equitable: <i>Provided</i> , The relative valuation of property in the same county shall not be changed, unless manifest error or imperfection shall appear in any of the lists of valuation, in which case the said board of assessors shall have power to correct the same as to them shall appear just and right. And if, in consequence of any revision, change and alteration of the said valuation, any inequality shall be produced in the apportionment of the said direct tax to the several states as aforesaid, it shall be the duty of the secretary of the treasury to report the same to congress, to the intent that provision may be made by law for rectifying such inequality.
Their powers to revise and adjust.	
Relative valuation not to be changed except for manifest error	
Reports to congress.	
Ibid. § 29.	22. As soon as the said board of assessors shall have completed the adjustment and equalization of the valuation aforesaid, they shall proceed to apportion to each county and state district its proper quota of direct tax. And the said board of assessors shall, within twenty days after the time appointed by the secretary of the treasury for their first meeting, complete the said apportionment, and shall record the same; they shall thereupon further deliver to each assessor a certificate of such apportionment, together with the several lists by the assessors respectively presented to the board as aforesaid, and transmit to the secretary of the treasury a certificate of the apportionment by them
Board to apportion tax among the several counties.	

made as aforesaid; and the assessors, respectively, shall thereupon proceed to revise their respective lists, and alter and make the same in all respects conformable to the apportionment aforesaid by the said board of assessors; and the said assessors, respectively, shall make out lists containing the sums payable according to the provisions of this act upon every object of taxation in and for each collection district; which lists shall contain the name of each person residing within the said district, owning or having the care or superintendence of property lying within the said district which is liable to the said tax, when such person or persons are known, together with the sums payable by each; and where there is any property within any collection district liable to the payment of the said tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable, and the names of the respective proprietors, where known. And the said assessors shall furnish to the collectors of the several collection districts, respectively, within thirty-five days after the apportionment is completed as aforesaid, a certified copy of such list or lists for their proper collection districts; and in default of performance of the duties enjoined on the board of assessors and assessors, respectively, by this section, they shall severally and individually forfeit and pay the sum of five hundred dollars to the use of the United States, to be recovered in any court having competent jurisdiction. And it is hereby enacted and declared that the valuation, assessment, equalization and apportionment, made by the said board of assessors as aforesaid, shall be and remain in full force and operation for laying, levying and collecting, yearly and every year, the annual direct tax by this act laid and imposed, until altered, modified or abolished by law.

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Assessors to revise their lists accordingly.

What such lists to contain.

Copy to be certified to collectors.

Penalty for neglect of duty

Valuation to continue until altered by law.

Ibid. § 30.

Compensation of assessors and assistant assessors.

Allowance for stationery, &amp;c.

23. There shall be allowed and paid to the several assessors and assistant assessors, for their services under this act; to each assessor two dollars per day for every day employed in making the necessary arrangements and giving the necessary instructions to the assistant assessors for the valuation, and three dollars per day for every day employed in hearing appeals, revising valuations and making out lists agreeably to the provisions of this act, and one dollar for every hundred taxable persons contained in the tax list, as delivered by him to said board of assessors; to each assistant assessor two dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor and approved by the commissioner of taxes, and one dollar for every hundred taxable persons contained in the tax lists, as completed and delivered by him to the assessor; to each of the assessors constituting the board of assessors as aforesaid, for every day's actual attendance at said board, the sum of three dollars, and for travelling to and from the place designated by the secretary of the treasury, ten cents for each mile, by the most direct and usual route; and to each of the clerks of said board two dollars for every day's actual attendance thereon. And the said board of assessors, and said assessors, respectively, shall be allowed their necessary and reasonable charges for stationery and blank books used in the execution of their duties; and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized, and shall be paid at the treasury, and such amount as shall be required for such payment is hereby appropriated.

Ibid. § 31.

Collectors to give three receipts for lists.

How disposed of.

24. Each collector, on receiving a list as aforesaid from the said assessors, respectively, shall subscribe three receipts; one of which shall be given on a full and correct copy of such list, which list shall be delivered by him to, and shall remain with, the assessor of his collection district, and shall be open to the inspection of any person who may apply to inspect the same; and the other two receipts shall be given on aggregate statements of the lists aforesaid, exhibiting the gross amount of taxes to be collected in each county or state district contained in the collection district, one of which aggregate statements and receipts shall be transmitted to the secretary, and the other to the first comptroller of the treasury.

Ibid. § 32.

Collectors to give bonds.

Condition.

25. Each collector, before receiving any list as aforesaid for collection, shall give bond, with one or more good and sufficient sureties, to be approved by the solicitor of the treasury, in the amount of the taxes assessed in the collection district for which he has been or may be appointed; which bond shall be payable to the United States, with condition for the true and faithful discharge of the duties of his office according to law, and particularly for the due collection and payment of all moneys assessed upon such district, and the said bond shall be transmitted to the solicitor of the treasury, and, after approval by him, shall be deposited in the office of the first comptroller of the treasury: *Provided always*, That nothing herein contained shall be deemed to annul or in anywise impair the obligation of the bond heretofore given by any collector; but the same shall be and remain in full force and virtue, anything in this act to the contrary thereof in anywise notwithstanding.

5 Aug. 1861 § 33.

Lien of taxes.

26. The annual amount of the taxes so assessed shall be and remain a lien upon all lands and other real estate of the individuals who may be assessed for the same, during two years after the time it shall annually become due and payable; and the said lien shall extend to each and every part of all tracts or lots of land or dwelling-houses, notwithstanding the same may have been divided or alienated in part.

Ibid. § 34.

Appointment of deputy collectors

27. Each collector shall be authorized to appoint, by an instrument of writing under his hand and seal, as many deputies as he may think proper, to be by him compensated for their services, and also to revoke the powers of any deputy, giving public notice thereof in that portion of the district assigned to such deputy; and each such deputy shall have the like authority, in every respect, to collect the direct tax so assessed within the portion of the district assigned to him which is by this act vested in the collector himself; but each collector shall, in every respect, be responsible both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done as deputy collector by any of his deputies whilst acting as such: *Provided*, That nothing herein contained shall prevent any collector from collecting himself the whole or any part of the tax so assessed and payable in his district.

Collectors to be responsible for their acts.

Ibid. § 35.

Collectors to give public notice to pay taxes.

28. Each of the said collectors shall, within ten days after receiving his collection list from the assessors, respectively, as aforesaid, and annually, within ten days after he shall be so required by the secretary of the treasury, advertise in one newspaper printed in his collection district, if any there be, and by notifications, to be posted up in at least four public places in his collection district, that the said tax has become due and payable, and state the times and places at which he or they will attend to receive the same, which shall be within twenty days after such notification; and with respect to persons who shall not attend, according to such notifications, it shall be the duty of each collector, in person or by deputy, to apply once at their respective dwellings within such district, and there demand the taxes payable by such persons, which application shall be made within sixty days after the receipt of the collection lists, as aforesaid, or after the receipt of the requisition of the secretary of the treasury, as aforesaid, by the collectors; and if the said taxes shall not be then paid, or within twenty days thereafter, it shall be lawful for such collector, or his deputies, to proceed to collect the said taxes by distraint and sale of the goods, chattels or effects of the persons delinquent as aforesaid. And in case of such distraint, it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods or chattels which may be distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels or effects, or at his or her dwelling, with some person of suitable age and discretion, with a note of the sum demanded, and the time and place of sale; and the said officer shall forthwith cause a notification to be publicly posted up at two of the taverns nearest to the residence of the person whose property shall be distrained, or at the court-house of the same county, if not more than ten miles distant, which notice shall specify the articles distrained, and the time and place for the sale thereof, which time shall not be less than ten days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint: *Provided*, That in any case of distraint for the payment of the tax aforesaid, the goods, chattels or effects so distrained shall and may be restored to the owner or possessor, if, prior to the sale thereof, payment or tender thereof shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expense of removing and keeping the goods, chattels or effects so distrained, as may be allowed in like cases by the laws or practice of the state wherein the distraint shall have been made; but in case of non-payment or tender, as aforesaid, the said officers shall proceed to sell the said goods, chattels or effects at public auction, and shall and may retain from the proceeds of such sale the amount demandable for the use of the United States, with the necessary and reasonable expenses of distraint and sale, and a commission of five per centum thereon for his own use, rendering the overplus, if any there be, to the person whose goods, chattels or effects shall have been distrained: *Provided*, That it shall not be lawful to make distraint of the tools or implements of a trade or profession, beasts of the plough necessary for the cultivation of improved lands, arms or household furniture, or apparel necessary for a family.

Demand.

Unpaid taxes to be distrained for.

Proceedings on distress.

Property distrained to be restored on payment of tax.

To be sold in case of non-payment.

What property to be exempt from distress.

Ibid. § 36.

If no personal property, real estate to be sold.

29. Whenever goods, chattels or effects sufficient to satisfy any tax upon buildings, dwelling-houses or lands and their improvements, owned, occupied, or superintended by persons known or residing within the same collection district, cannot be found, the collector having first advertised the same for thirty days in a newspaper printed within the collection district, if such there be, and having posted up in at least ten public places within the same, a notification of the intended sale, thirty days previous thereto, shall proceed to sell at public sale so much of the said property as may be necessary to

satisfy the taxes due thereon, together with an addition of twenty per centum to the said taxes. But in all cases where the property liable to a direct tax under this act may not be divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the tax, costs, charges and commissions, shall be paid to the owner of the property or his legal representatives, or if he or they cannot be found, or refuse to receive the same, then such surplus shall be deposited in the treasury of the United States, to be there held for the use of the owner or his legal representatives, until he or they shall make application therefor to the secretary of the treasury, who, upon such application, shall, by warrant on the treasury, cause the same to be paid to the applicant. And if the property advertised for sale as aforesaid cannot be sold for the amount of the tax due thereon, with the said additional twenty per centum thereto, the collector shall purchase the same in behalf of the United States for the amount aforesaid: *Provided*, That the owner or superintendent of the property aforesaid, after the same shall have been as aforesaid advertised for sale, and before it shall have been actually sold, shall be allowed to pay the amount of the tax thereon, with an addition of ten per centum on the same, on the payment of which the sale of the property shall not take place: *Provided also*, That the owners, their heirs, executors or administrators, or any person on their behalf, shall have liberty to redeem the lands and other property sold as aforesaid, within two years from the time of sale, upon payment to the collector for the use of the purchaser, his heirs or assigns, of the amount paid by said purchaser, with interest for the same, at the rate of twenty per centum per annum; and no deed shall be given in pursuance of such sale until the time of redemption shall have expired. And the collector shall render a distinct account of the charges incurred in offering and advertising for sale such property, and shall pay into the treasury the surplus, if any there be, of the aforesaid addition of twenty per centum, or ten per centum, as the case may be, after defraying the charges. And in every case of the sale of real estate, which shall be made under the authority of this act, by the collectors respectively, or their lawful deputies respectively, the deeds for the estate so sold shall be prepared, made, executed and proved or acknowledged at the time and times prescribed in this act by the collectors respectively, within whose collection district such real estate shall be situated, in such form of law as shall be authorized and required by the laws of the United States, or by the law of the state in which such real estate lies, for making, executing, proving and acknowledging deeds of bargain and sale, or other conveyances for the transfer and conveyance of real estate; and for every deed so prepared, made, executed, proved and acknowledged, the purchaser or grantee shall pay to the collector the sum of two dollars, for the use of the collector or other person effecting the sale of the real estate thereby conveyed.

30. With respect to property lying within any collection district not owned or occupied, or superintended by some person residing in such collection district, and on which the tax shall not have been paid to the collector, within ninety days after the day on which he shall have received the collection lists from the said assessors respectively as aforesaid, or the requisition of the secretary of the treasury as aforesaid, the collector shall transmit lists of the same to one of the collectors within the same state, to be designated for that purpose by the secretary of the treasury; and the collector, who shall have been thus designated by the secretary of the treasury, shall transmit receipts for all the lists received as aforesaid, to the collector transmitting the same; and the collectors, thus designated in each state by the secretary of the treasury, shall cause notifications of the taxes due as aforesaid, and contained in the lists thus transmitted to them, to be published for sixty days in at least one of the newspapers published in the state; and the owners of the property, on which such taxes may be due, shall be permitted to pay to such collector the said tax, with an addition of ten per centum thereon: *Provided*, That such payment is made within one year after the day on which the collector of the district where such property lies had notified that the tax had become due on the same.

31. When any tax as aforesaid shall have remained unpaid for the term of one year, as aforesaid, the collector in the state where the property lies, and who shall have been designated by the secretary of the treasury as aforesaid, having first advertised the same for sixty days in at least one newspaper in the state, shall proceed to sell at public sale so much of the said property as may be necessary to satisfy the taxes due thereon, together with an addition of twenty per centum thereon; or if such property is not divisible, as aforesaid, the whole thereof shall be sold, and accounted for in the manner hereinbefore provided. If the property advertised for sale cannot be sold for the amount of the tax due thereon, with the said addition thereon, the collector shall purchase the

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Proceedings on  
sale of real estate  
for taxes.When to be pur-  
chased for the  
government.Payment after  
notice of sale.Right of redemp-  
tion.When deed to be  
delivered.

Form of deed.

Fees.

Ibid. § 27.

Collection of  
taxes from non-  
residents.

Advertisements.

Ibid. § 33.

Real estate of  
non-residents to  
be sold after one  
year.



5 August 1861. same in behalf of the United States for such amount and addition. And the collector shall render a distinct account of the charges incurred in offering and advertising for sale such property, and pay into the treasury the surplus, if any, of the aforesaid addition of ten or twenty per centum, as the case may be, after defraying the said charges.

*Ibid.* § 39.

Lists of property sold for taxes to be deposited with clerks of district courts.

Right of redemption.

Deeds.

Fees.

Persons under disability to have further time to redeem.

Compensation for improvements.

Costs.

*Ibid.* § 40.

Collectors to make monthly statement.

To pay over quarterly.

Final account.

*Ibid.* § 41.

Collectors to be charged with amount of tax lists.

Credits.

32. The collectors, designated as aforesaid by the secretary of the treasury, shall deposit with the clerks of the district court of the United States in the respective states, and within which district the property lies, correct lists of the tracts of land or other real property sold by virtue of this act for non-payment of taxes, together with the names of owners or presumed owners, and of the purchasers of the same at the public sales aforesaid, and of the amount paid by said purchasers for the same; the owners, their heirs, executors or administrators, or any person in their behalf, shall have liberty to redeem the lands or other property sold as aforesaid, within two years from the time of sale, upon payment to the clerk aforesaid, for the use of the purchaser, his heirs or assigns, of the amount paid by such purchaser for the said land or other real property, with interest for the same at the rate of twenty per centum per annum, and of a commission of five per centum on such payment for the use of the clerk aforesaid. The clerks shall, on application, pay to the purchasers the moneys thus paid for their use; and the collectors respectively shall give deeds for the lands or property aforesaid to the purchasers entitled to the same, in all cases where the same shall not have been redeemed within two years, as aforesaid, by the original owners thereof, or their legal representatives, or any person in their behalf, and deposit such deeds with such clerk. And the said clerk shall be entitled to receive from the purchaser, for his own use, the sum of one dollar, in addition to the sum hereinbefore made payable to the collector, for every such deed, to be paid on the delivery thereof to such purchasers. And in all cases where lands may be sold under this act for the payment of taxes, belonging to infants, persons of insane mind, married women or persons beyond sea, such persons shall have the term of two years after their respective disabilities shall have been removed, or their return to the United States, to redeem lands thus sold, on their paying into the clerk's office aforesaid the amount paid by the purchaser, with fifty per centum addition thereto, together with ten per centum interest per annum on the aggregate sum, and on their payment to the purchaser of the land aforesaid a compensation for all improvements he may have made on the premises, subsequent to his purchase, the value of which improvements to be ascertained by three or more neighboring freeholders, to be appointed by the clerk aforesaid, who, on actual view of the premises, shall assess the value of such improvements, on their oaths, and make return of such valuation to the clerk immediately. And the clerk of the court shall receive such compensation for his services herein, to be paid by and received from the parties, like costs of suit, as the judge of the district court shall in that respect tax and allow.

33. The several collectors shall, at the expiration of every month, after they shall respectively commence their collections in the next and every ensuing year, transmit to the secretary of the treasury a statement of the collections made by them respectively within the month, and pay over quarterly, or sooner, if required by the secretary of the treasury, the moneys by them respectively collected within the said term; and each of the said collectors shall complete the collection of all sums annually assigned to him for collection as aforesaid, shall pay over the same into the treasury, and shall render his final account to the treasury department within six months from and after the day when he shall have received the collection lists from the said board of assessors or the said requisition of the secretary of the treasury as aforesaid: *Provided, however,* That the period of one year and three months from the said annual day shall be annually allowed to the collector designated in each state as aforesaid, by the secretary of the treasury, with respect to the taxes contained in the list transmitted to him by the other collectors as aforesaid.

34. Each collector shall be charged with the whole amount of taxes by him receipted, whether contained in the lists delivered to him by the principal assessors respectively, or transmitted to him by other collectors; and shall be allowed credit for the amount of taxes contained in the lists transmitted in the manner above provided to other collectors, and by them receipted as aforesaid; and also for the taxes of such persons as may have absconded or become insolvent subsequent to the date of the assessment, and prior to the day when the tax ought, according to the provisions of this act, to have been collected: *Provided,* That it shall be proved to the satisfaction of the first comptroller of the treasury that due diligence was used by the collector, and that no property was left from which the tax could have been recovered; and each collector, designated in each state as aforesaid by the secretary of the treasury, shall receive credit for the taxes due for all tracts of land which, after being offered by him for sale in manner aforesaid, shall or may have been purchased by him in behalf of the United States.

35. If any collector shall fail, either to collect or to render his account, or to pay over in the manner or within the times hereinbefore provided, it shall be the duty of the first comptroller of the treasury, and he is hereby authorized and required, immediately after such delinquency, to report the same to the solicitor of the treasury, who shall issue a warrant of distress against such delinquent collector and his sureties, directed to the marshal of the district, therein expressing the amount of the taxes with which the said collector is chargeable, and the sums, if any, which have been paid. And the said marshal shall, himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, by distress and sale of the goods and chattels, or any personal effects of the delinquent collector; and for want of goods, chattels or effects aforesaid, sufficient to satisfy the said warrant, the same may be levied on the person of the collector, who may be committed to prison, there to remain until discharged in due course of law; and furthermore, notwithstanding the commitment of the collector to prison as aforesaid, or if he abscond, and goods, chattels and effects cannot be found sufficient to satisfy the said warrant, the said marshal or his deputy shall and may proceed to levy and collect the sum which remains due, by distress and sale of the goods and chattels, or any personal effects, of the surety or sureties of the delinquent collector. And the amount of the sums due from any collector as aforesaid shall, and the same are hereby declared to be a lien upon the lands and real estate of such collector and his sureties, until the same shall be discharged according to law. And for want of goods and chattels, or other personal effects of such collector or his sureties, sufficient to satisfy any warrant of distress issued pursuant to the preceding section of this act, the lands and real estate of such collector and his sureties, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, may and shall be sold by the marshal or his deputy; and for all lands and real estates sold in pursuance of the authority aforesaid, the conveyances of the marshals or their deputies, executed in due form of law, shall give a valid title against all persons claiming under delinquent collectors or their sureties aforesaid. And all moneys that may remain of the proceeds of such sale, after satisfying the said warrant of distress, and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the lands or real estate sold as aforesaid.

5 Aug. 1861 § 42.

Proceedings  
against delin-  
quent collectors.Levy on personal  
property.Arrest of the  
person.Levy on property  
of sureties.

Lien on lands.

Sale of real estate

Deeds.

Overplus.

36. Each and every collector, or his deputy, who shall exercise or be guilty of any extortion or oppression, under color of this act, or shall demand other or greater sums than shall be authorized by this act, shall be liable to pay a sum not exceeding two thousand dollars, to be recovered by and for the use of the party injured, with costs of suit, in any court having competent jurisdiction; and each and every collector, or his deputies, shall give receipts for all sums by them collected and retained in pursuance of this act.

Ibid. § 43.

Penalty for ex-  
tortion.

37. Separate accounts shall be kept at the treasury of all moneys received from the direct tax, and from the internal duties, or income tax, in each of the respective states, territories, and District of Columbia, and collection districts; and separate accounts shall be kept of the amount of each species of duty that shall accrue, with the moneys paid to the collectors, assessors and assistant assessors, and to the other officers employed in each of the respective states, territories and collection districts, which accounts it shall be the duty of the secretary of the treasury, annually, in the month of December, to lay before congress:

Ibid. § 44.

How accounts to  
be kept at the  
treasury.Reports to con-  
gress.

38. The assessors, respectively, shall, yearly and in every year, after the expiration of one year from the second Tuesday of February next, inquire and ascertain, in the manner by the fourteenth section of this act provided, what transfers and changes of property in lands, lots of ground, buildings and dwelling-houses have been made and effected in their respective districts, subsequent to the next preceding valuation, assessment and apportionment of the direct tax by this act laid; and within twenty days thereafter they shall make out three lists of such transfers and changes, and transmit one list to the secretary of the treasury, another list to the commissioner of taxes, and the third shall be delivered to the collector of the collection district. And it shall yearly, and every year, after the said year 1862, be the duty of the secretary of the treasury to notify the collectors of the several collection districts the day on which it shall be the duty of the said collectors to commence laying and collecting the annual direct tax by this act laid and imposed, according to the assessment of the tax lists to them delivered by the said assessors as aforesaid, subject only to such alterations therein as shall be just and proper, in the opinion of the secretary of the treasury, to conform to the transfers and changes aforesaid, ascertained by the assessors aforesaid; and the said collect-

Ibid. § 45.

Transfers and  
changes of title  
to be ascertained.Lists thereof to  
be made out.Collectors to con-  
form thereto.

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Ibid. § 46.

Proceedings where a state neglects to pay after assuming its quota of the tax.

Ibid. § 47.

False swearing to be deemed perjury.

Ibid. § 48.

Compensation of collectors.

Stationery.

Ibid. § 50.

Secretary to select depositaries.

Ibid. § 52.

Collection of taxes in states in rebellion.

Ibid. § 53.

Each state may collect and pay its own quota.

Discount thereon.

ors shall, annually, in all respects, proceed in and conclude the collection of the said direct tax in the same manner and within the time hereinbefore provided and prescribed.

39. In case any state, territory or the District of Columbia, after notice given of its intention to assume and pay, or to levy, collect and pay said direct tax herein provided for and apportioned to said state, territory or district, shall, in any year after the taking effect of this act, fail to pay the amount of said direct tax or any part thereof, as provided in this act, in such cases it shall be lawful for the secretary of the treasury of the United States to appoint United States assessors, assistant assessors and collectors, as in this act provided; whose duty it shall be to proceed forthwith, under such regulations as the said secretary of the treasury shall prescribe, to collect all or any part of said direct tax, the same as though said state, territory or district had not given notice, nor assumed to levy, collect and pay said taxes or any part thereof.

40. Any person who shall be convicted of wilfully taking a false oath or affirmation in any of the cases in which an oath or affirmation is required to be taken by this act, shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury, and shall, moreover, forfeit the sum of five hundred dollars.

41. There shall be allowed to the collectors appointed under this act, in full compensation for their services and that of their deputies in carrying this act into effect, a commission of four per centum upon the first hundred thousand dollars, one per centum upon the second one hundred thousand dollars, and one-half of one per centum upon all sums above two hundred thousand dollars; such commissions to be computed upon the amounts by them respectively paid over and accounted for under the instructions of the treasury department: *Provided*, That in no case shall such commissions exceed the sum of four thousand dollars for a principal officer and two thousand dollars for an assistant. And there shall be further allowed to each collector their necessary and reasonable charges for stationery and blank books used in the performance of their official duties, which, after being duly examined and certified by the commissioner of taxes, shall be paid out of the treasury.

42. The secretary of the treasury is further authorized to select and appoint one or more depositaries in each state for the deposit and safe-keeping of the moneys arising from the taxes herein imposed when collected, and the receipt of the proper officer of such depositary to the collector for the moneys deposited by him shall be the proper voucher for such collector in the settlement of his account at the treasury department. And he is further authorized and empowered to make such officer or depositary the disbursing agent of the treasury for the payment of all interest due to the citizens of such state upon the treasury notes or other government securities issued by authority of law.

43. Should any of the people of any of the states or territories of the United States, or the District of Columbia, be in actual rebellion against the authority of the government of the United States at the time this act goes into operation, so that the laws of the United States cannot be executed therein, it shall be the duty of the president, and he is hereby authorized, to proceed to execute the provisions of this act within the limits of such state or territory, or District of Columbia, as soon as the authority of the United States therein is re-established, and to collect the sums which would have been due from the persons residing or holding property or stocks therein, with the interest due, at the rate of six per centum per annum thereon until paid, in the manner and under the regulations prescribed in the foregoing sections of this act.

44. Any state or territory and the District of Columbia may lawfully assume, assess, collect and pay into the treasury of the United States the direct tax, or its quota thereof, imposed by this act upon the state, territory or the District of Columbia, in its own way and manner, by and through its own officers, assessors and collectors; that it shall be lawful to use for this purpose the last or any subsequent valuation, list or appraisal made by state or territorial authority for the purpose of state or territorial taxation therein, next preceding the date when this act takes effect, to make any laws or regulations for these purposes, to fix or change the compensation to officers, assessors and collectors; and any such state, territory or district which shall give notice by the governor, or other proper officer thereof, to the secretary of the treasury of the United States, on or before the second Tuesday of February next, and in each succeeding year thereafter, of its intention to assume and pay, or to assess, collect and pay into the treasury of the United States, the direct tax imposed by this act, shall be entitled, in lieu of the compensation, pay per diem and per centage herein prescribed and allowed to assessors, assistant assessors and collectors of the United States, to a deduction of fifteen per centum on the quota of direct tax apportioned to such state, territory or the District of Columbia, levied and collected by said state, territory and District of Columbia through its said officers: *Provided, however*, That the deduction shall only be made to apply to such part or parts of the same as shall have been actually paid into the treasury of the

United States on or before the last day of June in the year to which such payment relates, and a deduction of ten per centum to such part or parts of the same as shall have been actually paid into the treasury of the United States on or before the last day of September in the year to which such payment relates, such year being regarded as commencing on the first day of April: *And provided further*, That whenever notice of the intention to make such payment by the state or territory and the District of Columbia shall have been given to the secretary of the treasury, in accordance with the foregoing provisions, no assessors, assistant assessors or collectors, in any state, territory or district, so giving notice, shall be appointed, unless said state, territory or district shall be in default: *And provided further*, That the amount of direct tax apportioned to any state, territory or the District of Columbia, shall be liable to be paid and satisfied, in whole or in part, by the release of such state, territory or district, duly executed to the United States, of any liquidated and determined claim of such state, territory or district of equal amount against the United States: (a) *Provided*, That, in case of such release, such state, territory or district shall be allowed the same abatement of the amount of such tax as would be allowed in case of payment of the same in money.

5 August 1861.

In such case no officers to be appointed.

May be paid by release of claims against the government.

Ibid. § 54.

Duties of collectors.

Collection of penalties.

Ibid. § 55.

Lien on property of collectors and their sureties.

Ibid. § 56.

Commissioner of taxes to be appointed.

Salary.

Clerks.

Ibid. § 57.

When deputy may act for collector.

Ibid. § 58.

Who to act as collector in case of vacancy.

7 June 1862 § 1.  
12 Stat. 422.

45. It shall be the duty of the collectors aforesaid in their respective districts, and they are hereby authorized to collect the duties imposed by this act, and to prosecute for the recovery of the same, and for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties and forfeitures which shall be incurred by force of this act, shall and may be sued for and recovered in the name of the United States, or of the collector within whose district any such fine, penalty or forfeiture shall have been incurred, by bill, plaint or information; one moiety thereof to the use of the United States, and the other moiety thereof to the use of such collector.

46. The amount of all debts due to the United States by any collector under this act, whether secured by bond or otherwise, shall and are hereby declared to be a lien upon the lands and real estate of such collector, and of his sureties, if he shall have given bond, from the time when suit shall be instituted for recovering the same; and, for want of goods and chattels and other personal effects of such collector or his sureties to satisfy any judgment which shall or may be recovered against them respectively, such lands and real estate may be sold at public auction, after being advertised for at least three weeks in not less than three public papers within the collection district, and in one newspaper printed in the county, if any there be, at least six weeks prior to the time of sale; and for all lands or real estate sold in pursuance of the authority aforesaid, the conveyances of the marshals or their deputies, executed in due form of law, shall give a valid title against all persons claiming under such collector or his sureties respectively.

47. For superintending the collection of the direct tax and internal duties or income tax laid by this act, an officer is hereby authorized in the treasury department, to be called "Commissioner of Taxes," (b) who shall be charged, under the direction of the secretary, with preparing all the forms necessary for the assessment and collection of the tax and duties aforesaid, with preparing, signing and distributing all such licenses as are required, and with the general superintendence of all the officers employed in assessing and collecting said tax and duties; said commissioner shall be appointed by the president, upon the nomination of the secretary of the treasury, and he shall receive an annual salary of three thousand dollars. The secretary of the treasury may assign the necessary clerks to the office of said commissioner, whose aggregate salaries shall not exceed six thousand dollars per annum, and the amount required to pay the salaries of said commissioner and clerks is hereby appropriated.

48. In case of the sickness or temporary disability of a collector to discharge such of his duties as cannot, under existing laws, be discharged by a deputy, they may be devolved by him upon a deputy: *Provided*, Information thereof be immediately communicated to the secretary of the treasury, and shall not be disapproved by him: *And provided*, That the responsibility of the collector or his sureties to the United States shall not be thereby affected or impaired.

49. In case a collector shall die, resign or be removed, the deputy of such collector longest in service at the time immediately preceding, who shall have been longest employed by him, may and shall, until a successor shall be appointed, discharge all the duties of said collector, and for whose conduct, in case of the death of the collector, his estate shall be responsible to the United States.

50. When in any state or territory, or in any portion of any state or territory, by reason of insurrection or rebellion, the civil authority of the government of the United States is obstructed so that the provisions of the act entitled "An act to provide

(a) See act 13 May 1862. 13 Stat. 384.

(b) See infra 66.

7 June 1862.

Taxes to be  
charged on lands  
in insurrectionary  
districts.

Apportionment.

*Ibid.* § 2.

President to  
proclaim what  
districts are in  
insurrection.  
Lien of taxes.

*Ibid.* § 3.

Owners may  
pay and be dis-  
charged.

*Ibid.* § 4.

Title to lands on  
which tax is im-  
posed to vest in  
the United States

*Ibid.* § 5.

Tax commission-  
ers to be appoint-  
ed.  
Salaries.

*Ibid.* § 6.

When to enter  
upon their duties

*Ibid.* § 7.

To advertise  
lands for sale.

Sales regulated.

increased revenue from imports to pay interest on the public debt, and for other purposes," approved August 5th 1861, for assessing, levying and collecting the direct taxes therein mentioned, cannot be peaceably executed, the said direct taxes, by said act apportioned among the several states and territories respectively, shall be apportioned and charged in each state and territory or part thereof, wherein the civil authority is thus obstructed, upon all the lands and lots of ground situate therein respectively, except such as are exempt from taxation by the laws of said state or of the United States, as the said lands or lots of ground were enumerated and valued under the last assessment and valuation thereof made under the authority of said state or territory previous to the first day of January, Anno Domini 1861; and each and every parcel of the said lands, according to said valuation, is hereby declared to be, by virtue of this act, charged with the payment of so much of the whole tax laid and apportioned by said act upon the state or territory wherein the same is respectively situate, as shall bear the same direct proportion to the whole amount of the direct tax apportioned to said state or territory as the value of said parcels of land shall respectively bear to the whole valuation of the real estate in said state or territory, according to the said assessment and valuation made under the authority of the same; and in addition thereto a penalty of fifty per centum of said tax shall be charged thereon.

51. On or before the first day of July next, the president, by his proclamation, shall declare in what states and parts of states said insurrection exists, and thereupon the said several lots or parcels of land shall become charged respectively with their respective portions of said direct tax, and the same together with the penalty shall be a lien thereon, without any other or further proceeding whatever.

52. It shall be lawful for the owner or owners of said lots or parcels of lands, within sixty days after the tax commissioners herein named shall have fixed the amount, to pay the tax thus charged upon the same respectively, into the treasury of the United States, or to the commissioners herein appointed, and take a certificate thereof, by virtue whereof the said lands shall be discharged from said tax.(a)

53. The title of, in, and to each and every piece or parcel of land upon which said tax has not been paid as above provided, shall thereupon become forfeited to the United States, and, upon the sale hereinafter provided for, shall vest in the United States, or in the purchasers at such sale, in fee simple, free and discharged from all prior liens, incumbrances, right, title and claim whatsoever.

54. The president of the United States, by and with the advice and consent of the senate, may appoint a board of three tax commissioners for each of said states in which such insurrection exists, with a salary of three thousand dollars each per annum, to give security in the sum of fifty thousand dollars each, in such form as the secretary of the treasury shall direct, and to be approved by him, for the faithful performance of all their duties as such, and to account for and pay over all moneys and other property coming to their hands: *Provided*, That said commissioners shall not receive pay under the provisions of this act until they shall have entered upon the discharge of their duties.

55. The said board of tax commissioners shall enter upon the discharge of the duties of their office whenever the commanding general of the forces of the United States, entering into any such insurrectionary state or district, shall have established the military authority of the United States throughout any parish or district or county of the same, and they shall open one or more offices for the transaction of business.

56. The said board of commissioners shall be required, in case the taxes charged upon the said lots and parcels of land shall not be paid, as provided for in the third section of this act, to cause the same to be advertised for sale in a newspaper published in the town, parish, district or county where situate; and if there be no such newspaper published in said town, parish, district or county, or if the publisher thereof refuse to publish the same, then in any other newspaper to be selected by said commissioners in said district, or in the city of Washington, for at least four weeks, and by posting notices of said sale in three public places in the town, parish, district or county within which said lands are situate, at least four weeks previous to the day of sale; and at the time and place of sale to cause the same to be severally sold to the highest bidder for a sum not less than the taxes, penalty and costs, and ten per centum per annum interest on said tax, pursuant to said notice; in all cases where the owner of said lots or parcels of ground shall not, on or before the day of sale, appear in person before the said board of commissioners and pay the amount of said tax, with ten per centum interest thereon, with the cost of advertising the same, or request the same to be struck off to a purchaser for a less sum than two-thirds of the assessed value of said several lots or parcels of ground, the said commissioners shall be authorized at said sale to bid off the same for the United States at a sum not exceeding two-thirds of the

(a) See Bout. 361.

assessed value thereof, unless some person shall bid a larger sum; and in that case the same shall be struck off to the highest bidder, who shall, upon paying the purchase-money in gold and silver coin, or in the treasury notes of the United States, or in United States notes, or in certificates of indebtedness against the United States, be entitled to receive from said commissioners their certificate of sale; which said certificate shall be received in all courts and places as *prima facie* evidence of the regularity and validity of said sale, and of the title of the said purchaser or purchasers under the same: *Provided*, That the owner of said lots of ground, or any loyal person of the United States having any valid lien upon or interest in the same, may, at any time within sixty days after said sale, appear before the said board of tax commissioners in his or her own proper person, and, if a citizen, upon taking an oath to support the constitution of the United States, and paying the amount of said tax and penalty, with interest thereon from the date of the said proclamation of the president mentioned in the second section of this act, at the rate of fifteen per centum per annum, together with the expenses of the sale and subsequent proceedings, to be determined by said commissioners, may redeem said lots of land from said sale; and any purchaser under the same having paid moneys, treasury notes or other certificates of indebtedness of the United States, shall, upon such redemption being made, be entitled to have the same, with the interest accruing after said sale, returned to him by the said commissioners, upon surrendering up the certificates of sale: *And provided further*, That if the owner of said lots of ground shall be a minor, a non-resident alien, or loyal citizen beyond seas, a person of unsound mind, or under a legal disability, the guardian, trustee or other person having charge of the person or estate of such person, may redeem the same at any time within two years after the sale thereof, and in the manner above provided, and with like effect: *And provided further*, That at such sale any tracts, parcels or lots of land which may be selected under the direction of the president for government use, for war, military, naval, revenue, charitable, educational or police purposes, may, at said sale, be bid in by said commissioners, under the direction of the president, for, and struck off to the United States: *And provided further*, That the certificate of said commissioners shall only be affected as evidence of the regularity and validity of sale by establishing the fact that said property was not subject to taxes, or that the taxes had been paid previous to sale, or that the property had been redeemed according to the provisions of this act. (a)

7 June 1862.

Payment of purchase-money.

Right of redemption.

Exception in favor of persons under disabilities

Effect of certificate.

Ibid. § 8.

Further time for redemption in certain cases.

Appeal from decision of commissioners.

Jurisdiction of the district courts.

Ibid. § 9.

Commissioners may lease lands in certain cases.

57. At any time within one year after the said sale by said commissioners, any person being the owner of any lot or parcel of ground at the passage of this act, who shall, by sufficient evidence, prove to the satisfaction of said board of commissioners that he or she, after the passage of this act, has not taken part in the present insurrection against the United States, or in any manner aided or abetted the same; and that, by reason of said insurrection, he or she has been unable to pay said tax, or to redeem said lands from sale within the time above provided for, the said board of commissioners may allow him or her further time to redeem the same, not exceeding two years from the day of sale; and for this purpose they may take the testimony of witnesses, and shall reduce the same to writing; and the United States, or any person claiming an interest in said lands, may appear and oppose the said application. From their decision the United States or any party in interest may appeal to the district court of the United States for said district, which is hereby authorized to take jurisdiction of the same, as in other cases involving the equity of redemption. And in case said board of commissioners should, for any cause, cease to act before the expiration of one year after said sales, the said district court shall have original jurisdiction of the proceeding for redemption, as herein provided, to take place before the said board of commissioners.

58. In cases where the owners of said lots and parcels of ground have abandoned the same, and have not paid the tax thereon as provided for in the third section of this act, nor paid the same, nor redeemed the said land from sale as provided for in the seventh section of this act, and the said board of commissioners shall be satisfied that said owners have left the same to join the rebel forces or otherwise to engage in and abet this rebellion, and the same shall have been struck off to the United States at said sale, the said commissioners shall, in the name of the United States, enter upon and take possession of the same, and may lease the same, together or in parcels, to any person or persons who are citizens of the United States, or may have declared on oath their intention to become such, until the said rebellion and insurrection in said state shall be put down, and the civil authority of the United States established, and until the people of said state shall elect a legislature and state officers, who shall take an oath to support the constitution of the United States, to be announced by the proclamation of the president, and until the first day of March next thereafter, said leases to be in such form and with such

(a) The 7th section is thus amended by the act 6 February 1863. 12 Stat. 640. See Bout. 181, for the regulations established by the commissioner.

7 June 1862.

Ibid. § 10.

Conditions of lease.

Ibid. § 11.

Commissioners may sell instead of leasing.

Who may become purchasers.

Right of pre-emption.

Ibid. § 12.

Proceeds, how disposed of.

Ibid. § 13.

How lands to be valued, in case of lost assessment.

Ibid. § 14.

Tax books to be kept.

Transcripts to be filed in the treasury department.

Clerk of commissioners.

Ibid. § 15.

What property to be exempt.

1 July 1862 § 119.  
12 Stat. 489.

security as shall, in the judgment of said commissioners, produce to the United States the greatest revenue.

59. The said commissioners shall from time to time make such temporary rules and regulations, and insert such clauses in said leases as shall be just and proper to secure proper and reasonable employment and support, at wages or upon shares of the crop, of such persons and families as may be residing upon the said parcels or lots of land, which said rules and regulations are declared to be subject to the approval of the president.

60. The said board of commissioners, under the direction of the president, may be authorized, instead of leasing the said lands vested in the United States, as above provided, to cause the same, or any portion thereof, to be subdivided and sold in parcels not to exceed three hundred and twenty acres to any one purchaser, at public sale, after giving due notice thereof, as upon the sale of other public lands of the United States, for sixty days, and to issue a certificate therefor; and at any such sale, any loyal citizen of the United States, or any person who shall have declared on oath his intention to become such, or any person who shall have faithfully served as an officer, musician or private soldier or sailor in the army or navy or marine service of the United States, as a regular or volunteer, for the term of three months, may become the purchaser; and if upon such sale any person serving in the army or navy or marine corps shall pay one-fourth part of the purchase-money, a certificate shall be given him, and he shall have the term of three years in which to pay the remainder, either in money or in certificates of indebtedness from the United States; and any citizen of the United States, or any person who shall have declared his intention to become such, being the head of a family, and residing in the state or district where said lands are situate, and not the owner of any other lands, may, under such rules as may be established by said board of commissioners, have the right to enter upon and acquire the rights of pre-emption in such lands as may be unimproved and vested in the United States, and as may be selected by said board of commissioners, under the direction of the president, from time to time, for such purpose.

61. The proceeds of said leases and sales shall be paid into the treasury of the United States, one-fourth of which shall be paid over to the governor of said state wherein said lands are situated, or his authorized agent, when such insurrection shall be put down, and the people shall elect a legislature and state officers who shall take an oath to support the constitution of the United States, and such fact shall be proclaimed by the president, for the purpose of reimbursing the loyal citizens of said state, or such other purpose as said state may direct; and one-fourth shall also be paid over to said state as a fund to aid in the colonization or emigration from said state of any free person of African descent who may desire to remove therefrom to Hayti, Liberia or any other tropical state or colony.

62. In case the records of assessments and valuation of the lots of land mentioned in the first section of this act shall be destroyed, concealed or lost, so as not to come within the possession of the said boards of commissioners, they shall be authorized to take evidence of the same, or to value and assess the same in their own judgment upon such evidence as may appear before them; and no mistake in the valuation of the same, or in the amount of tax thereon, shall, in any manner whatever, affect the validity of the sale of the same or of any of the proceedings preliminary thereto.

63. The said tax commissioners shall keep a book or books, in which they shall enter or cause to be entered the amount or quota of said direct tax assessed on each tract or parcel of land; which said amounts shall be distinctly stated in the advertisement or notice of sale, together with a description of the tract to be sold, and an entry shall be made in said book or books of each tract sold, together with the name of the purchaser, and the sum for which the same may have been sold. A transcript or transcripts of said book or books, duly verified by said commissioners, and said books, when said commission shall expire, shall be filed in the office of the secretary of the treasury of the United States; and said books and transcripts, and copies of said books and transcripts duly certified by the secretary of the treasury, shall be evidence in any court in the United States. The said commissioners may employ a clerk, whose compensation shall be twelve hundred dollars per annum.

64. The 13th section of the act of August 5th 1861, (a) entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," shall be so construed as not to exempt from taxation property above the value of five hundred dollars, but to exempt from taxation property of the value of five hundred dollars, or less, owned by individuals, notwithstanding the provisions of said act.

65. So much of an act entitled "An act to provide increased revenue from imports,

(a) *Supra* 6.

to pay interest on the public debt, and for other purposes," approved August 5th 1861, as imposes a direct tax of twenty millions of dollars on the United States, shall be held to authorize the levy and collection of one tax to that amount; and no other tax shall be levied under and by virtue thereof, until the first day of April 1865, when the same shall be in full force and effect.

1 July 1862.

But one direct tax to be imposed before 1865.

## II. COLLECTION OF INTERNAL REVENUE.

66. For the purpose of superintending the collection of internal duties, stamp duties, licenses or taxes imposed by this act, or which may be hereafter imposed, and of assessing the same, an office is hereby created in the treasury department to be called the office of the commissioner of internal revenue; and the president of the United States is hereby authorized to nominate, and, with the advice and consent of the senate, to appoint a commissioner of internal revenue, with an annual salary of four thousand dollars, who shall be charged and hereby is charged under the direction of the secretary of the treasury, with preparing all the instructions, regulations, directions, forms, blanks, stamps and licenses, and distributing the same or any part thereof, and all other matters pertaining to the assessment and collection of the duties, stamp duties, licenses and taxes, which may be necessary to carry this act into effect, and with the general superintendence of his office as aforesaid, and shall have authority and hereby is authorized and required to provide proper and sufficient stamps or dies for expressing and denoting the several stamp duties, or the amount thereof in the case of percentage duties, imposed by this act, and to alter and renew or replace such stamps from time to time, as occasion shall require; and the secretary of the treasury may assign to the office of the commissioner of internal revenue such number of clerks as he may deem necessary or the exigencies of the public service may require; and the privilege of franking all letters and documents pertaining to the duties of his office, and of receiving free of postage all such letters and documents, is hereby extended to said commissioner.

1 July 1862 § 1.  
12 Stat. 432.

Commissioner of internal revenue to be appointed.

Salary.

His duties.

Clerks.

Franking privilege.

Ibid. § 2.

Collection districts.

Assessors and collectors.

Number of districts limited.

67. That, for the purpose of assessing, levying and collecting the duties or taxes hereinafter prescribed by this act, the president of the United States be and he is hereby authorized to divide, respectively, the states and territories of the United States and the District of Columbia into convenient collection districts, (a) and to nominate and by and with the advice and consent of the senate, to appoint an assessor and a collector for each such district, who shall be residents within the same: *Provided*, That any of said states and territories and the District of Columbia may, if the president shall deem it proper, be erected into and included in one district: *Provided*, That the number of districts in any state shall not exceed the number of representatives to which such state shall be entitled in the present congress, except in such states as are entitled to an increased representation in the 38th congress, in which states the number of districts shall not exceed the number of representatives to which any such state may be so entitled: *And provided further*, That in the state of California the president may establish a number of districts not exceeding the number of senators and representatives to which said state is entitled in the present congress.

Ibid. § 3.

Assessment districts.

Oath of assessors.

68. Each of the assessors shall divide his district into a convenient number of assessment districts, subject to such regulations and limitations as may be imposed by the commissioner of internal revenue, within each of which he shall appoint one assistant assessor, who shall be resident therein; and each assessor and assistant assessor so appointed, and accepting the appointment, shall, before he enters on the duties of his appointment, take and subscribe, before some competent magistrate or some collector, to be appointed by virtue of this act (who is hereby empowered to administer the same), the following oath or affirmation, to wit: "*I, A. B., do swear or affirm (as the case may be), that I will bear true faith and allegiance to the United States of America, and will support the constitution thereof, and that I will, to the best of my knowledge, skill and judgment, diligently and faithfully execute the office and duties of assessor for (naming the assessment district), without favor or partiality, and that I will do equal right and justice in every case in which I shall act as assessor.*" And a certificate of such oath or affirmation shall be delivered to the collector of the district for which such assessor or assistant assessor shall be appointed. And every assessor or assistant assessor acting in the said office without having taken the said oath or affirmation shall forfeit and pay one hundred dollars, one moiety thereof to the use of the United States, and the other moiety thereof to him who shall first sue for the same, with costs of suit.

Penalty for acting without being sworn.

Ibid. § 4.

Collectors to give bond.

Condition.

69. Before any such collector shall enter upon the duties of his office, he shall execute a bond for such amount as shall be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury, with not less than five sureties to be approved as sufficient by the solicitor of the treasury, containing the condition that said collector shall faithfully perform the duties of his office according to law, and shall

(a) The president having once fixed the boundaries of a collection district, has no power to change it. Opinion of Bates, Attorney-General.



1 July 1862.

When to be renewed.

Ibid. § 5.

Appointment of deputy collectors

Their powers.

Responsibility of collectors.

Ibid. § 6.

Returns of taxable property to be made to assistant assessors.

Ibid. § 7.

Duties of assistant assessors.

Ibid. § 8.

When assistant assessors to make out return from information.

Ibid. § 9.

Penalty for making fraudulent return.

justly and faithfully account for and pay over to the United States, in compliance with the order or regulations of the secretary of the treasury, all public moneys which may come into his hands or possession; which bond shall be filed in the office of the first comptroller of the treasury. And such collectors shall from time to time renew, strengthen and increase their official bonds, as the secretary of the treasury may direct.

70. Each collector shall be authorized to appoint, by an instrument of writing under his hand, as many deputies as he may think proper, to be by him compensated for their services, and also to revoke any such appointment, giving such notice thereof as the commissioner of internal revenue shall prescribe; and may require bonds or other securities, and accept the same from such deputy. And each such deputy shall have the like authority in every respect to collect the duties and taxes levied or assessed within the portion of the district assigned to him which is by this act vested in the collector himself; but each collector shall in every respect be responsible both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done as deputy collector by any of his deputies whilst acting as such, and for every omission of duty: *Provided*, That nothing herein contained shall prevent any collector from collecting himself the whole or any part of the duties and taxes so assessed and payable in his district.

71. It shall be the duty of any person or persons, partnerships, firms, associations or corporations, made liable to any duty, license, stamp or tax imposed by this act, when not otherwise and differently provided for, on or before the first day of August 1862, (a) and on or before the first Monday of May in each year thereafter, and in all other cases before the day of levy, to make a list or return to the assistant assessor of the district where located, of the amount of annual income, the articles or objects charged with a special duty or tax, the quantity of goods, wares and merchandise made or sold, and charged with a specific or ad valorem duty or tax, the several rates and aggregate amount according to the respective provisions of this act, and according to the forms and regulations to be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury, for which such person or persons, partnerships, firms, associations or corporations are liable to be assessed under and by virtue of the provisions of this act.

72. The instructions, regulations and directions, as hereinbefore mentioned, shall be binding on each assessor and his assistants, and on each collector and his deputies, in the performance of the duties enjoined by or under this act; pursuant to which instructions the said assessors shall, on the first day of August 1862, and on the first Monday of May in each succeeding year, and from time to time thereafter, in accordance with this act, direct and cause the several assistant assessors to proceed through every part of their respective districts, and inquire after and concerning all persons being within the assessment districts where they respectively reside, owning, possessing or having the care or management of any property, goods, wares and merchandise, articles or objects liable to pay any duty, stamp or tax, including all persons liable to pay a license duty, under the provisions of this act (by reference as well to any lists of assessment or collection taken under the laws of the respective states as to any other records or documents, and by all other lawful ways and means, especially to the written list, schedule or return required to be made out and delivered to the assistant assessor by all persons owning, possessing or having the care or management of any property as aforesaid, liable to duty or taxation), and to value and enumerate the said objects of taxation respectively, in the manner prescribed by this act, and in conformity with the regulations and instructions before mentioned.

73. If any person owning, possessing or having the care or management of property, goods, wares and merchandise, articles or objects liable to pay any duty, tax or license, shall fail to make and exhibit a written list when required as aforesaid, and shall consent to disclose the particulars of any and all the property, goods, wares and merchandise, articles and objects liable to pay any duty or tax, or any business or occupation liable to pay any license as aforesaid, then, and in that case, it shall be the duty of the officer to make such list, which, being distinctly read, consented to and signed by the person so owning, possessing or having the care and management as aforesaid, shall be received as the list of such person.

74. If any such person shall deliver or disclose to any assessor or assistant assessor appointed in pursuance of this act, and requiring a list or lists as aforesaid, any false or fraudulent list or statement, with intent to defeat or evade the valuation or enumeration hereby intended to be made, such person so offending, and being thereof convicted on indictment found therefor in any circuit or district court of the United States, held in the district in which such offence may be committed, shall be fined in a sum not exceeding five hundred dollars, at the discretion of the court, and shall pay all costs and

(a) In all cases mentioned in this act, the secretary postponed its operation to the 1st September 1862.

charges of prosecution; and the valuation and enumeration required by this act shall, in all such cases, and in all cases of under valuation or under statement in such lists or statements, be made as aforesaid upon lists, according to the form prescribed, to be made out by the assessors and assistant assessors, respectively; (a) which lists the said assessors and assistant assessors are hereby authorized and required to make according to the best information they can obtain, and for the purpose of making which they are hereby authorized to enter into and upon all and singular the premises, respectively; and from the valuation and enumeration so made there shall be no appeal.

1 July 1862.

Assessment, how made, in such cases.

To be without appeal.

Ibid. § 10.

Notice to be left for absent persons.

75. In case any person shall be absent from his or her place of residence at the time an assistant assessor shall call to receive the list of such person, it shall be the duty of such assistant assessor to leave at the place of residence of such person, with some person of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office a written note or memorandum, addressed to such person, requiring him or her to present to such assessor the list or lists required by this act, within ten days from the date of such note or memorandum.

Ibid. § 11.

How assessment to be made, in case of neglect to make return.

76. If any person, on being notified or required as aforesaid, shall refuse or neglect to give such list or lists within the time required as aforesaid, it shall be the duty of the assessor for the assessment district within which such person shall reside, (b) and he is hereby authorized and required, to enter into and upon the premises, if it be necessary, of such persons so refusing or neglecting, and to make, according to the best information which he can obtain, and on his own view and information, such lists of property, goods, wares and merchandise, and all articles or objects liable to duty or taxation, owned or possessed, or under the care or management of such person, as are required by this act, including the amount, if any, due for license; (c) and in case of refusal or neglect to make such lists, except in cases of sickness, the assessors shall thereupon add fifty per centum to the amount of the items thereof; and the lists, so made and subscribed by such assessor, shall be taken and reputed as good and sufficient lists of the persons and property for which such person is to be taxed for the purposes of this act; and the person so failing or neglecting, unless in case of sickness or failure to receive the notice, shall, moreover, forfeit and pay the sum of one hundred dollars, except where otherwise provided for, to be recovered for the use of the United States, with costs of suit.

Penalty.

Ibid. § 12.

How property of non-residents to be assessed.

77. Whenever there shall be in any assessment district any property, goods, wares and merchandise, articles or objects, not owned or possessed by, or under the care or management of, any person or persons within such district, and liable to be taxed as aforesaid, and no list of which shall have been transmitted to the assistant assessor in the manner provided by this act, it shall be the duty of the assistant assessor for such district, and he is hereby authorized and required, to enter into and upon the premises where such property is situated, and take such view thereof as may be necessary, and to make lists of the same, according to the form prescribed, which lists, being subscribed by the said assessor, shall be taken and reputed as good and sufficient lists of such property, goods, wares and merchandise, articles or objects, as aforesaid, under and for the purposes of this act.

Ibid. § 13.

Non-resident owners may make returns of their taxable property.

78. The owners, possessors or persons having the care or management of property, goods, wares and merchandise, articles or objects, not lying or being within the assessment district in which they reside, shall be permitted to make out and deliver the lists thereof required by this act (provided the assessment district in which the said objects of duty or taxation are situated is therein distinctly stated), at the time and in the manner prescribed to the assistant assessor of the assessment district wherein such persons reside. And it shall be the duty of the assistant assessor who receives any such list to transmit the same to the assistant assessor where such objects of taxation are situate, who shall examine such list; and if he approves the same, he shall return it to the assistant assessor from whom he received it, with his approval thereof; and if he fails to approve the same, he shall make such alterations therein as he may deem to be just and proper, and shall then return the said list, with such alterations therein or additions thereto, to the assistant assessor from whom he received the said list; and the assistant assessor, where the person liable to pay such tax resides, shall proceed in making the assessment of the tax upon the list by him so received, in all respects as if the said list had been made out by himself.

Proceedings thereon.

Ibid. § 14.

General returns to be made out.

79. The aforesaid lists shall, where not otherwise specially provided for, be taken with reference to the day fixed for that purpose by this act, as aforesaid, and where duties accrue at other and different times, the lists shall be taken with reference to the time when said duties become due; and the assistant assessors, respectively, after collecting the said lists, shall proceed to arrange the same and to make two general lists, the first of which shall exhibit, in alphabetical order, the names of all persons liable to pay any duty, tax or license under this act residing within the assessment district, together with the value

(a) This applies, not only to the annual lists, but to all lists required by the excise law. Bout. 180.

(b) Or any assistant assessor, by act 3 March 1863 § 1. 12 Stat. 713.  
(c) See Bout. 180.

1 July 1862.	and assessment, or enumeration, as the case may require, of the objects liable to duty or taxation within such district for which each such person is liable, or for which any firm, company or corporation is liable, with the amount of duty or tax payable thereon; and the second list shall exhibit, in alphabetical order, the names of all persons residing out of the collection district, owners of property within the district, together with the value and assessment or enumeration thereof, as the case may be, with the amount of duty or tax payable thereon as aforesaid. The forms of the said general list shall be devised and prescribed by the assessor, under the direction of the commissioner of internal revenue, and lists taken according to such forms shall be made out by the assistant assessors and delivered to the assessor within thirty days after the day fixed by this act as aforesaid, requiring lists from individuals; or where duties, licenses or taxes accrue at other and different times, the lists shall be delivered from time to time as they become due. And if any assistant assessor shall fail to perform any duty assigned by this act within the time prescribed by his precept, warrant or other legal instructions, not being prevented therefrom by sickness or other unavoidable accident, every such assistant assessor shall be discharged from office, and shall, moreover, forfeit and pay two hundred dollars, to be recovered for the use of the United States, with costs of suit.
Forms of general returns.	
Penalty for neglect.	
Ibid. § 16.	80. The assessors for each collection district shall, by advertisement in some public newspaper published in each county within said district, if any such there be, and by written or printed notifications, to be posted up in at least four public places within each assessment district, advertise all persons concerned of the time and place within said county when and where the lists, valuations and enumerations made and taken within said county may be examined; and said lists shall remain open for examination for the space of fifteen days after notice shall have been given as aforesaid. And said notifications shall also state when and where, within said county, after the expiration of said fifteen days, appeals will be received and determined relative to any erroneous or excessive valuations or enumerations by the assistant assessors. (a) And it shall be the duty of the assessor for each collection district, at the time fixed for hearing such appeal (b) as aforesaid, to submit the proceedings of the assistant assessors and the lists taken and returned as aforesaid, to the inspection of any and all persons who may apply for that purpose. And the said assessor for each collection district is hereby authorized, at any time within fifteen days from and after the expiration of the time allowed for notification as aforesaid, to hear and determine, in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assistant assessors: <i>Provided</i> , That the question to be determined by the assessor, on an appeal respecting the valuation or enumeration of property, or objects liable to duty or taxation, shall be, whether the valuation complained of be or be not in a just relation or proportion to other valuations in the same assessment district, and whether the enumeration be or be not correct. And all appeals to the assessor, as aforesaid, shall be made in writing, and shall specify the particular cause, matter or thing respecting which a decision is requested; and shall, moreover, state the ground or principle of inequality or error complained of. And the assessor shall have power to re-examine and equalize the valuations as shall appear just and equitable; but no valuation or enumeration shall be increased without a previous notice, of at least five days, to the party interested, to appear and object to the same, if he judge proper; which notice shall be given by a note in writing, to be left at the dwelling-house, office or place of business of the party by such assessor or an assistant assessor.
Assessor to give public notice where tax lists may be examined	
Appeals.	
To be in writing.	
Powers of assessors on appeal.	
Ibid. § 16.	81. The said assessors of each collection district, respectively, shall, immediately after the expiration of the time for hearing appeals, and, from time to time, as duties, taxes or licenses become liable to be assessed, make out lists containing the sums payable according to the provisions of this act upon every object of duty or taxation in and for each collection district, which lists shall contain the name of each person residing within the said district, owning or having the care or superintendence of property lying within the said district which is liable to the said tax, or engaged in any business or pursuit requiring a license, when such person or persons are known, together with the sums payable by each; and where there is any property within any collection district liable to the payment of the said duty or tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable and the names of the respective proprietors, where known. And the assistant assessor making out any such separate list, shall transmit therefrom to the assistant assessor where the persons liable to pay such tax reside or shall have their principal place of business, copies of the list of property held by per-
Collection lists to be made out.	
Form thereof.	
List of property of non-residents.	

(a) Assessors are not to give fifteen days to each county, but only so much time after the expiration of the notice as may be

necessary. Dec. Com. Oct. 1862. Bout. 233.  
(b) The hearing may be adjourned. Bout. 180.

sons so liable to pay such tax, to the end that the taxes assessed under the provisions of this act may be paid within the collection district where the persons liable to pay the same reside or may have their principal place of business. And in all other cases the said assessor shall furnish to the collectors of the several collection districts, respectively, within ten days after the time of hearing appeals, and from time to time thereafter as required, a certified copy of such list or lists for their proper collection districts. And in default of performance of the duties enjoined upon assessors by this section they shall severally and individually forfeit and pay the sum of five hundred dollars to the use of the United States, and, moreover, shall forfeit their compensation as assessors; *Provided*, That it shall be in the power of the commissioner of internal revenue to exonerate any assessor as aforesaid from such forfeitures, in whole or in part, as to him shall appear just and equitable.

1 July 1862.

When lists to be furnished to collectors.

Penalty for neglect.

82. There shall be allowed and paid to the several assessors and assistant assessors, for their services under this act, to each assessor three dollars per day for every day employed in making the necessary arrangements and giving the necessary instructions to the assistant assessors for the valuation; and five dollars per day for every day employed in hearing appeals, revising valuations and making out lists agreeably to the provisions of this act; and one dollar for every hundred taxable persons contained in the tax list, as delivered by him to said collectors, and forwarded to the commissioner of internal revenue; to each assistant assessor three dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor and approved by the commissioner of internal revenue; and one dollar for every hundred taxable persons contained in the tax list, as completed and delivered by him to the assessor. And the said assessors and assistant assessors respectively shall also be allowed their necessary and reasonable charges for stationery and blank books used in the execution of their duties, and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized: *Provided*, The secretary of the treasury shall be and he is hereby authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in the states of California and Oregon and the territories as may appear to him to be just and equitable in consequence of the greater cost of living and travelling in those states and territories, and as may in his judgment be necessary to secure the services of competent and efficient men, provided the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such states and territories respectively. In cases where a collection district embraces more than a single congressional district, the secretary of the treasury may allow the assessor such compensation as he may deem necessary. (a)

Ibid. § 17.

Compensation of assessors and assistant assessors.

Stationery.

On the Pacific, and in the territories.

83. Each collector, on receiving a list as aforesaid, and from time to time as such lists may be received from the said assessors respectively, shall subscribe three receipts; one of which shall be given on a full and correct copy of such list, which list shall be delivered by him to, and shall remain with the assessor of his collection district, and shall be open to the inspection of any person who may apply to inspect the same; and the other two receipts shall be given on aggregate statements of the lists aforesaid, exhibiting the gross amount of taxes to be collected in his collection district, one of which aggregate statements and receipts shall be transmitted to the commissioner of internal revenue, and the other to the first comptroller of the treasury; and all lists received from time to time as aforesaid, shall be in like form and manner transmitted as aforesaid.

Ibid. § 19.

Collectors to give triplicate receipts.

How disposed of.

84. Each of said collectors (b) shall, within ten days after receiving his annual collection list from the assessors respectively as aforesaid, give notice by advertisement published in each county in his collection district, in one newspaper printed in such county, if any such there be, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties have become due and payable, and state the time and place within said county at which he will attend to receive the same, which time shall not be less than ten days after such notification; (c) and all persons who shall neglect to pay the duties and taxes so as aforesaid assessed upon them, to the collector, within the time specified, shall be liable to pay ten per centum additional upon the amount thereof, the fact of which liability shall be stated in the advertisement and notifications aforesaid. And with regard to all persons who shall neglect to pay as aforesaid, it shall be the duty of the collector, in person or by deputy, within twenty days after such neglect, to make a demand personally, or at the dwellings or usual places of business of such persons, if any they have, for payment of said duties or taxes, with the ten per centum additional aforesaid. And with respect to all

Ibid. § 19.

Collectors to give public notice.

Penalty for neglect to pay within time prescribed.

Collector to make demand.

(a) See *infra* 116.

(b) By act 3 March 1863 § 1, the deputy collector may perform

all the duties required by this section. 12 Stat. 714.

(c) See Bout. 133-4.

1 July 1862.	such duties or taxes as are not included in the annual lists aforesaid, and all taxes and duties the collection of which is not otherwise provided for in this act, it shall be the duty of each collector, in person or by deputy, to demand payment thereof in manner aforesaid within ten days from and after receiving the list thereof from the assessor; (a)
To collect by distress and sale.	and if the annual and other duties shall not be paid within ten days from and after such demand therefor, it shall be lawful for such collector or his deputies to proceed to collect the said duties or taxes, with ten per centum additional thereto as aforesaid, by distraint and sale of the goods, chattels or effects of the persons delinquent as aforesaid. (b)
Proceedings on distraint.	And in case of such distraint it shall be the duty of the officer charged with the collection, to make or cause to be made an account of the goods or chattels which may be distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels or effects, or at his or her dwelling, with some person of suitable age and discretion, with a note of the sum demanded and the time and place of sale; and the said officer shall forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if there is a newspaper published in said county, or to be publicly posted up at the post office, if there be one within five miles nearest to the residence of the person whose property shall be distrained, and in not less than two other public places, which notice shall specify the articles distrained and the time and place for the sale thereof, which time shall not be less than ten nor more than twenty days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint: <i>Provided</i> , That in any case of distraint for the payment of the duties or taxes aforesaid, the goods, chattels or effects so distrained shall and may be restored to the owner or possessor, if, prior to the sale, payment of the amount due, or tender thereof, shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expense of removing, advertising and keeping the goods, chattels or effects so distrained as may be prescribed by the commissioner of internal revenue; but in case of non-payment or tender as aforesaid, the said officers shall proceed to sell the said goods, chattels or effects at public auction, and shall and may retain from the proceeds of such sale the amount demandable for the use of the United States, with the necessary and reasonable expenses of distraint and sale, and a commission of five per centum thereon for his own use, rendering the overplus, if any there be, to the person whose goods, chattels or effects shall have been distrained: <i>Provided</i> , That there shall be exempt from distraint the tools or implements of a trade or profession, one cow, arms and provisions, and household furniture kept for use, and apparel necessary for a family.
Goods distrained to be released on payment of taxes and expenses.	85. In all cases where the property liable to distraint for duties or taxes under this act, may not be divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the duty or tax, costs and charges, shall be paid to the owner of the property, or his, her or their legal representatives; or if he, she or they cannot be found, or refuse to receive the same, then such surplus shall be deposited in the treasury of the United States, to be there held for the use of the owner, or his, her or their legal representatives, until he, she or they shall make application therefor to the secretary of the treasury, who, upon such application, shall, by warrant to the treasury, cause the same to be paid to the applicant. And if the property advertised for sale as aforesaid cannot be sold for the amount of the duty or tax due thereon, with the costs and charges, the collector shall purchase the same in behalf of the United States, for an amount not exceeding the said tax or duty, with the costs and charges thereon. And all property so purchased may be sold by said collector under such regulations as may be prescribed by the commissioner of internal revenue. And the collector shall render a distinct account of all charges incurred in the sale of such property, and shall pay into the treasury the surplus, if any there be, after defraying the charges.
Sales regulated.	
What property to be exempt.	
<i>Ibid.</i> § 20.	
Proceedings where property is not divisible.	
Collector to purchase for the government.	
Sales of property so purchased.	
<i>Ibid.</i> § 21.	
In default of personal property, real estate to be seized.	86. In any case where goods, chattels or effects sufficient to satisfy the duties imposed by this act upon any person liable to pay the same, shall not be found by the collector or deputy collector, whose duty it may be to collect the same, he is hereby authorized to collect the same by seizure and sale of real estate; and the officer making such seizure

(a) The act 3 March 1863 § 1, provides that any notice required by this section to persons who neglect to pay their taxes, may be sent by mail or left at the dwellings or usual places of business of such persons, if any they have, written or printed, and said notice shall state the amount of duty or tax for which such persons are liable, including the ten per centum additional, as provided for in said section, demanding payment of the same; and with respect to all such duties or taxes as are not included in the annual lists as provided for in said section, and all taxes and duties the collection of which is not otherwise provided for in said act, it shall be the duty of each collector in person or by deputy to

demand payment therefor, in the manner provided, within ten days from and after the expiration of the time within which such duty or tax should have been paid; and any copy of distraint shall be left at the dwelling or usual place of business of the owner or possessor of the property distrained: *Provided*, That such special demand shall not be necessary in respect to taxes assessed by section seventy-seven of this act. 12 Stat. 714. See Bout. 186.

(b) The ten per cent. penalty is not chargeable in the case of manufacturers, nor on the receipts of railroads, but it is to be assessed, in case of default, on auction duties, duties on slaughtered cattle, &c., and on licenses returned on monthly lists. Dec. Com.

and sale shall give notice to the person whose estate is proposed to be sold, by giving him in hand, or leaving at his last and usual place of abode, if he has any such within the collection district where said estate is situated, a notice in writing, stating what particular estate is proposed to be sold, describing the same with reasonable certainty, and the time when and the place where said officer proposes to sell the same; which time shall not be less than ten nor more than twenty days from the time of giving said notice; and the said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted up at the post office nearest to the place of residence of the person whose estate shall be so seized, and in two other public places within the county; and the place of said sale shall not be more than five miles distant from the estate seized. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the amount of duties with the ten per centum additional thereon, and all charges for advertising, and an officer's fee of ten dollars. And if no person offers for said estate the amount of said minimum, the officer shall declare the same to be purchased by him for the United States, and shall deposit with the district attorney of the United States a deed thereof, as hereinafter specified and provided; otherwise the same shall be declared to be sold to the highest bidder. And said sale may be adjourned by said officer for a period not exceeding five days, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner. If the amount bid shall be then and there paid, the officer shall give his receipt therefor, if requested, and within five days thereafter he shall make out a deed of the estate so sold to the purchaser thereof, and execute the same in his official capacity, in the manner prescribed by the laws of the state in which said estate may [be] situated, in which said deed shall be recited the fact of said seizure and sale, with the cause thereof, the amount of duty for which said sale was made, and of all charges and fees, and the amount paid by the purchaser, and all his acts and doings in relation to said seizure and sale, and shall have the same ready for delivery to said purchaser, and shall deliver the same accordingly, upon request therefor. And said deed shall be *prima facie* evidence of the truth of the facts stated therein; and if the proceedings of the officer, as set forth, have been substantially in pursuance of the provisions of this act, shall be considered and operate as a conveyance to the purchaser of the title to said estate, but shall not affect the rights of third persons acquired previously to the claim of the United States under this act. The surplus, if any, arising from such sale shall be disposed of as provided in this act for like cases arising upon sales of personal property. And any person whose estate may be seized for duties as aforesaid, shall have the same right to pay or tender the amount due, with all proper charges thereon, prior to the sale thereof, and thereupon to relieve his said estate from sale as aforesaid, as is provided in this act for personal property similarly situated. And any collector or deputy collector may, for the collection of duties imposed upon any person by this act, and committed to him for collection, seize and sell the lands of such person situated in any other collection district within the state in which said officer resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district. And the owners, their heirs, executors or administrators, or any person having an interest therein, or any person on their behalf, shall have liberty to redeem the land sold as aforesaid within one year from and after recording the said deed, upon payment to the purchaser, or in case he cannot be found in the county where the lands are situate, to the collector for the use of the purchaser, his heirs or assigns, of the amount paid by the purchaser, with interest on the same at the rate of twenty per centum per annum. And it shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser and the date of the deed; which record shall be certified by the officer making the sale. And it shall be the duty of any deputy making sale as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof. And in case of the death or removal of the collector, or the expiration of his term of office from any other cause, said record shall be deposited in the office of the clerk of the district court of the United States for the district within which the said collector resided; and a copy of every such record, certified by the collector, or by the clerk, as the case may require, shall be evidence, in any court, of the truth of the facts therein stated. And when any lands sold as aforesaid shall be redeemed as hereinbefore provided, the collector or clerk, as the case may be, shall make an entry of the fact upon the record

1 July 1862.

Proceedings in such cases.

Sales regulated.

When collector to purchase for the government.

Deeds.

To be evidence of facts recited.

Lands in other districts may be sold.

Right of redemption.

Record of sales.

Where deposited.

Record of redemption.

1 July 1862.

aforesaid, and the said entry shall be evidence of such redemption. And the claim of the government to lands sold under and by virtue of the foregoing provisions shall be held to have accrued at the time of seizure thereof.

Ibid. § 22.

Collection of taxes on property of non-residents within the United States.

87. If any collector shall find upon any lists of taxes returned to him for collection, property lying within his district, which is charged with any specific or ad valorem tax or duty, but which is not owned, occupied or superintended by some person known to such collector to reside or to have some place of business within the United States, such collector shall forthwith take such property into his custody, and shall advertise the same, and the tax charged upon the same, in some newspaper published in his district, if any shall be published therein, otherwise in some newspaper in an adjoining district, for the space of thirty days; and if the taxes thereon, with all charges for advertising, shall not be paid within said thirty days, such collector shall proceed to sell the same, or so much as is necessary, in the manner provided for the sale of other goods distrained for the non-payment of taxes, and out of the proceeds shall satisfy all taxes charged upon such property, with the costs of advertising and selling the same. And like proceedings to those provided in the preceding section for the purchase and resale of property which cannot be sold for the amount of duty or tax due thereon, shall be had with regard to property sold under the provisions of this section. And any surplus arising from any sale herein provided for shall be paid into the treasury, for the benefit of the owner of the property. And the secretary of the treasury is authorized, in any case where money shall be paid into the treasury for the benefit of any owner of property sold as aforesaid, to repay the same, on proper proof being furnished that the person applying therefor is entitled to receive the same.

Ibid. § 23.

Collectors to make monthly returns.

88. The several collectors shall, at the expiration of each and every month, after they shall respectively commence their collections, transmit to the commissioner of internal revenue a statement of the collections made by them respectively within the month, and pay over monthly, or at such time or times as may be required by the commissioner of internal revenue, the moneys by them respectively collected within the said term, and at such places as may be designated and required by the commissioner of internal revenue; and each of the said collectors shall complete the collection of all sums annually assigned to him for collection as aforesaid, shall pay over the same into the treasury, and shall render his final account to the treasury department as often as he may be required, and within six months from and after the day when he shall have received the collection lists from the said assessors or assistant assessors as aforesaid. And the secretary of the treasury is authorized to designate one or more depositories in each state, for the deposit and safe-keeping of the moneys collected by virtue of this act; and the receipt of the proper officer of such depository to a collector for the money deposited by him shall be a sufficient voucher for such collector in the settlement of his accounts at the treasury department; and the commissioner of internal revenue may, under the direction of the secretary of the treasury, prescribe such regulations with reference to such deposits as he may deem necessary.

Final accounts to be rendered.

Depositories to be selected.

Ibid. § 24.

Collectors to be charged with the whole amount of tax lists.

89. Each collector shall be charged with the whole amount of taxes by him receipted, whether contained in lists delivered to him by the assessors respectively, or delivered or transmitted to him by assistant assessors from time to time, or by other collectors; and shall be credited with the amount of duties or taxes contained in the lists transmitted in the manner above provided to other collectors, and by them receipted as aforesaid; and also for the duties or taxes of such persons as may have absconded or become insolvent prior to the day when the duty or tax ought, according to the provisions of this act, to have been collected: *Provided*, That it shall be proved to the satisfaction of the first comptroller of the treasury that due diligence was used by the collector, and that no property was left from which the duty or tax could have been recovered. And each collector shall also be credited with the amount of all property purchased by him for the use of the United States, provided he shall faithfully account for and pay over the proceeds thereof upon a resale of the same as required by this act.

What deductions to be allowed.

Ibid. § 25.

Penalty for failure to collect.

90. If any collector shall fail either to collect or to render his account, or to pay over in the manner or within the times hereinbefore provided, it shall be the duty of the first comptroller of the treasury, and he is hereby authorized and required, immediately after such delinquency, to report the same to the solicitor of the treasury, who shall issue a warrant of distress against such delinquent collector and his sureties, directed to the marshal of the district, therein expressing the amount of the taxes with which the said collector is chargeable, and the sums, if any, which have been paid. And the said marshal shall himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due by distress and sale of the goods and chattels, or any personal effects of the delinquent collector, giving at least five days' notice of the time and place of sale, in the manner provided by law for advertising sales of personal pro-

Distress-warrant to issue.

Duties of marshal thereon.

party on execution in the state wherein such collector resides; and, furthermore, if such goods, chattels and effects cannot be found sufficient to satisfy the said warrant, the said marshal or his deputy shall and may proceed to levy and collect the sum which remains due by distress and sale of the goods and chattels, or any personal effects of the surety or sureties of the delinquent collector, giving notice as hereinbefore provided. And the bill of sale of the officer of any goods, chattels or other personal property, distrained and sold as aforesaid, shall be conclusive evidence of title to the purchaser, and *prima facie* evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same. And for want of goods and chattels, or other personal effects of such collector or his sureties, sufficient to satisfy any warrant of distress issued pursuant to the preceding section of this act, the lands and real estate of such collector and his sureties, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, may and shall be sold at public auction by the marshal or his deputy, who, upon such sale, shall, as such marshal or deputy marshal, make and deliver to the purchaser of the premises so sold, a deed of conveyance thereof, to be executed and acknowledged in the manner and form prescribed by the laws of the state in which said lands are situated, which said deed so made shall invest the purchaser with all the title and interest of the defendant or defendants named in said warrant, existing at the time of seizure thereof. And all moneys that may remain of the proceeds of such sale, after satisfying the said warrant of distress, and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the lands or real estate sold as aforesaid.

1 July 1862.

Proceedings  
against sureties.Proceedings  
against real  
estate.

Deeds.

Overplus.

91. Each and every collector or his deputy, who shall exercise or be guilty of any extortion or wilful oppression, under color of this act, or shall knowingly demand other or greater sums than shall be authorized by this act, shall be liable to pay a sum not exceeding double the amount of damages accruing to the party injured, to be recovered by and for the use of the party injured, with costs of suit, and shall be dismissed from office, and be disqualified from holding such office thereafter; and each and every collector, or his deputies, shall give receipts for all sums by them collected and retained in pursuance of this act.

Ibid. § 26.

Penalty for ex-  
tortion or wilful  
oppression.

92. A collector or deputy collector, assessor or assistant assessor, shall be authorized to enter, in the daytime, any brewery, distillery, manufactory, building or place where any property, articles or objects, subject to duty or taxation under the provisions of this act, are made, produced or kept, within his district, so far as it may be necessary for the purpose of examining said property, articles or objects, or inspecting the accounts required by this act from time to time to be made. (a) And every owner of such brewery, distillery, manufactory, building or place, or persons having the agency or superintendence of the same, who shall refuse to admit such officer, or to suffer him to examine said property, articles or objects, or to inspect said accounts, shall, for every such refusal, forfeit and pay the sum of five hundred dollars.

Ibid. § 27.

Power to enter  
on property.Penalty for refu-  
sal to admit.

93. If any person shall forcibly obstruct or hinder a collector or deputy collector in the execution of this act, or of any power and authority hereby vested in him, or shall forcibly rescue or cause to be rescued any property, articles or objects, after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending shall, for every such offence, \* \* upon conviction thereof by a court of competent jurisdiction, forfeit and pay the sum of five hundred dollars, or be imprisoned for a term not exceeding two years, at the discretion of the court. (b)

Ibid. § 28.

Penalty for ob-  
structing officers.

94. In case of the sickness or temporary disability of a collector to discharge such of his duties as cannot, under existing laws, be discharged by a deputy, they may be devolved by him upon one of his deputies: *Provided*, That information thereof be immediately communicated to the secretary of the treasury, and shall not be disapproved by him: *And provided further*, That the responsibility of the collector or his sureties to the United States shall not be affected or impaired thereby.

Ibid. § 29.

When deputy  
may act as col-  
lector.

95. In case a collector shall die, resign or be removed, the deputies of such collector shall continue to act until their successors are appointed; and the deputy of such collector longest in service at the time immediately preceding may and shall, until a successor shall be appointed, discharge all the duties of said collector; and for the official acts and defaults of such deputy a remedy shall be had on the official bond of the collector, as in other cases; (c) and of two or more deputy collectors, appointed on the same day, the one residing nearest the residence of the collector at the time of his death, resignation or removal, shall in like manner discharge the said duties until the appointment of a

Ibid. § 30.

Who to act in  
case of death, res-  
ignation or remo-  
val of collector.

(a) See Bout. 180, 365.

(b) So amended by act 3 March 1863. 12 Stat. 714.

(c) In such cases, the commissions accrue to the collector under whose bond the collections were made. Dec. Com. Sept. 1863.



- 1 July 1862.** successor; and any bond or security taken of such deputy by such collector, pursuant to the fifth section of this act, shall be available to his heirs or representatives to indemnify them for loss or damage accruing from any act of the proper deputy so continuing or so succeeding to the duties of such collector.
- Responsibility of sureties.** **Ibid. § 31.** 96. It shall be the duty of the collectors aforesaid, or their deputies in their respective districts, and they are hereby authorized to collect all the duties and taxes imposed by this act, however the same may be designated, and to prosecute for the recovery of the same, and for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties and forfeitures which may be incurred or imposed by virtue of this act, shall and may be sued for and recovered, in the name of the United States, or of the collector within whose district any such fine, penalty or forfeiture shall have been incurred, in any proper form of action, or by any appropriate form of proceeding, before any circuit or district court of the United States for the district within which said fine, penalty or forfeiture may have been incurred, or before any other court of competent jurisdiction; and, where not otherwise and differently provided for, one moiety thereof shall be to the use of the United States, and the other moiety thereof to the use of the person who, if a collector or deputy collector, shall first inform of the cause, matter or thing whereby any such fine, penalty or forfeiture was incurred. (a)
- Recovery of fines, &c.** **Ibid. § 32.** 97. If any person in any case, matter, hearing or other proceeding in which an oath or affirmation shall be required to be taken or administered under and by virtue of this act, shall, upon the taking of such oath or affirmation, knowingly and willingly swear or affirm falsely, every person so offending shall be deemed guilty of perjury, and shall on conviction thereof be subject to the like punishment and penalties now provided by the laws of the United States for the crime of perjury.
- How distributed.** **Ibid. § 33.** 98. Separate accounts shall be kept at the treasury of all moneys received from internal duties or taxes in each of the respective states, territories and collection districts; and separate accounts shall be kept of the amount of each species of duty or tax that shall accrue, so as to exhibit, as far as may be, the amount collected from each source of revenue, with the moneys paid to the collectors and deputy collectors, and to the other officers employed in each of the respective states, territories and collection districts, an abstract in tabular form of which accounts it shall be the duty of the secretary of the treasury, annually in the month of December, to lay before congress.
- False swearing to be deemed perjury.** **Ibid. § 34.** 99. There shall be allowed to the collectors appointed under this act, in full compensation for their services and that of their deputies in carrying this act into effect, a commission of four per centum upon the first hundred thousand dollars, and two per centum upon all sums above one hundred thousand dollars; such commissions to be computed upon the accounts by them respectively paid over and accounted for under the instructions of the treasury department: *Provided*, That in no case shall such commissions exceed the sum of ten thousand dollars per annum, except as hereinafter provided. (b) And there shall be further allowed to each collector his necessary and reasonable charges for stationery and blank books used in the performance of his official duties, which, after being duly examined and certified by the commissioner of internal revenue, shall be paid out of the treasury: *Provided*, That the secretary of the treasury be authorized to make such further allowance as may be reasonable in cases in which, from the territorial extent of the district, or from the amount of internal duties collected, it may seem just to make such allowance; but the whole compensation shall not exceed ten thousand dollars, except in collection districts embracing more than one congressional district. (c)
- Accounts, how kept at the treasury.** **Ibid. § 35.** 100. When any duty or tax shall have been paid by levy and distraint, any person or persons or party who may feel aggrieved thereby may apply to the assessor of the district for relief, and exhibit such evidence, as he, she or they may have, of the wrong done, or supposed to have been done; and after a full investigation the assessor shall report the case, with such parts of the evidence as he may judge material, including also such as may be regarded material by the party aggrieved, to the commissioner of internal revenue, who may, if it shall be made to appear to him that such duty or tax was levied or collected, in whole or in part, wrongfully or unjustly, certify the amount wrongfully and unjustly levied or collected, and the same shall be refunded and paid to the person or persons or party as aforesaid, from any moneys in the treasury not otherwise appropriated, upon the presentation of such certificate to the proper officer thereof. (d)
- Compensation of collectors.** **Ibid. § 36.** 101. In all cases of distraint and sale of goods or chattels, for non-payment of taxes provided for in this act, the bill of sale of such goods or chattels, given by the officer making such sale to the purchaser thereof, shall be conclusive evidence of the right of
- Stationery.**
- Proceedings where tax is wrongfully levied.**
- Effect of bill of sale**

(a) See Bont. 182.  
 (b) The accounts of each collector are to be settled and closed at the expiration of each year from the date of his appointment, and his commissions are to be calculated on the amount paid

over and accounted for during the year. Dec. Com. Sept. 1863. No. 125.  
 (c) See *infra* 111.  
 (d) See *infra* 118.

the officer to make such sale, and of the correctness of his proceedings in selling the same.

1 July 1862.

102. If for any cause, at any time after this act goes into operation, the laws of the United States cannot be executed in a state or territory of the United States, or any part thereof, or within the District of Columbia, it shall be the duty of the president, and he is hereby authorized to proceed to execute the provisions of this act within the limits of such state or territory, or part thereof, or District of Columbia, so soon as the authority of the United States therein shall be re-established, and to collect the sums which would have been due from the persons residing or holding property, goods, wares or merchandise, object or article therein liable to any duty, license or tax, with interest at the rate of six per centum per annum thereon, from the time such duty, license or tax ought to have been paid, until paid in the manner and under the regulations prescribed in this act, so far as applicable, and where not applicable the assessment and levy shall be made, and the time and manner of collection regulated by the instructions and directions of the commissioner of internal revenue, under the direction of the secretary of the treasury.

*Ibid.* § 37.

Execution of act in insurrectionary districts.

Interest to be charged.

103. The officers who may be appointed under this act, except within those districts within any state or territory which have been or may be otherwise specially provided for by law, shall be and hereby are authorized, in all cases where the payment of such tax has not been assumed by the state, to perform all the duties relating to or regarding the assessment and collection of the direct tax imposed by an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5th 1861, or any direct tax which may be hereafter enacted: *Provided*, That the sum of nineteen thousand three hundred and twelve dollars, direct tax, laid upon the territory of Nebraska by said act, shall be paid and satisfied by deducting said amount from the appropriation for legislative expenses of the territory of Nebraska for the year ending 30th of June 1863, and no further claim shall be made by said territory for legislative expenses for said year: *Provided further*, That the state of Tennessee shall have until the first day of December next to assume the payment of her portion of said tax.

*Ibid.* § 38.

Officers to collect the direct tax.

104. Whenever by this act any license, duty or tax of any description has been imposed on any corporate body, or property of any incorporated company, it shall be lawful for the commissioner of internal revenue to prescribe and determine in what district such tax shall be assessed and collected, and to what officer thereof the official notices required in that behalf shall be given, and of whom payment of such tax shall be demanded.(a)

*Ibid.* § 113.

Assessment of taxes on corporations.

105. All articles upon which duties are imposed by the provisions of this act, which shall be found in the possession of any person or persons for the purpose of being sold by such person or persons in fraud thereof and with the design to avoid payment of said duties, may be seized by any collector or deputy collector who shall have reason to believe that the same are possessed for the purpose aforesaid, and the same shall be forfeited to the United States.(b) And the proceedings to enforce said forfeiture shall be in the nature of a proceeding *in rem* in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any person who shall have in his possession any such articles for the purpose of selling the same with the design of avoiding payment of the duties imposed thereon by this act, shall be liable to a penalty of one hundred dollars, to be recovered as hereinbefore provided.

*Ibid.* § 114.

Articles liable to tax to be forfeited in default of payment.

106. The pay of the assessors, assistant assessors, collectors and deputy collectors, shall be paid out of the accruing internal duties or taxes before the same is paid into the treasury, according to such regulations as the commissioner of internal revenue, under the direction of the secretary of the treasury, shall prescribe.

*Ibid.* § 115.

Pay of officers.

107. All the sections of an act entitled "An act to provide internal revenue to support the government and to pay interest on the public debt," which require any matter or thing to be done on or before the first day of July or August 1862, shall be so amended and changed that said matters or things may be so done on or before any other day in the year 1862, not later than the first day of October 1862, which may be fixed and determined upon by the secretary of the treasury, if in his judgment a later day should be so fixed in order to put said act into practical operation; and all parts of said act having reference to the said dates of the first days of July and August 1862, shall be taken and construed as having reference to the said day which may be so fixed and determined upon: *Provided*, That the secretary of the treasury shall give public notice of the day so fixed and determined upon, in such manner as he may deem expedient.

17 July 1862 § 1.  
12 Stat. 627.

When law to be enforced.

108. The assessors, assistant assessors, collectors and deputy collectors appointed, or who may be appointed, under the provisions of an act entitled "An act to provide internal revenue to support the government and to pay interest on the public debt," approved

25 Dec. 1862 § 1.  
12 Stat. 631.

Power to administer oaths.

(a) See Bout. 173, 174.

(b) See Bout. 151, 253.

25 Dec. 1862.

July 1st 1862, and all subsequent acts in relation thereto which have been or may be enacted, are hereby authorized and empowered to administer oaths or affirmations in all cases where the same are or may be required by the acts as aforesaid: *Provided*, That no fees shall be charged or allowed therefor.

3 March 1863 § 1.  
12 Stat. 713.

109. Wherever any written notice, or other instrument in writing, is required, the same shall be lawful if written, or partly written and printed.

Ibid. § 12.

No duty on certain articles manufactured prior to 1 Sept. 1862.

110. No duty shall be required to be assessed or collected on beer, lager beer, ale or porter, brewed or manufactured, or on coal illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum or rock oil, distilled spirits, cotton or woollen fabrics, when brewed, manufactured or distilled prior to the first day of September 1862, whether the same was removed for consumption or sale or not, when the owner, agent or superintendent of the brewery or premises in which such articles as aforesaid were made, manufactured, produced or distilled shall furnish to the assessor of the district, without costs or expense to the United States, satisfactory proof that such beer, lager beer, ale or porter, or such coal illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum or rock oil, distilled spirits, cotton or woollen fabrics, was actually brewed, manufactured, produced or distilled prior to the first day of September 1862 as aforesaid: (a) *Provided*, That, in addition to the fractional parts of a barrel allowed in section fifty of the act to which this act is an amendment, fractional parts of a barrel may be thirds and sixths when the quantity therein contained is not greater than such fractional part represents: *Provided further*, That from and after the passage of this act, and until the first day of April 1864, there shall be paid on all beer, lager beer, ale, porter and other similar fermented liquors, by whatever name such liquors may be called, a duty only of sixty cents for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for fractional parts of a barrel: *And provided further*, That the commissioner of internal revenue is authorized to make rules providing for deductions on account of leakage, from the quantity of spirituous liquors subject to taxation, under the act to which this act is an amendment, not exceeding five per centum of the amount removed for sale: (b) and said deductions shall be so adjusted in the different parts of the United States as to be proportioned, as nearly as practicable, to the distances over which the manufacturer usually transports said liquors for the wholesale thereof; and the owner of the aforesaid liquors shall be charged with and pay the expense of ascertaining the leakage.

Duty on malt liquors until 1864.

Deductions for leakage.

Ibid. § 17.

Compensation of collectors.

111. In addition to the compensation now allowed to collectors for their services, and that of their deputies, there shall be allowed their necessary and reasonable charges for postage actually paid on letters and documents received or sent and exclusively relating to official business; and in calculating the commission of collectors of internal revenue in districts whence distilled spirits are shipped to be sold in other districts in pursuance of the provisions of the act to which this act is an amendment, the amount of duties due on the quantity of spirits so shipped shall be added to the principal on which the commissions of such collectors are calculated, and a corresponding amount shall be deducted from the principal sum on which the commissions of the collectors in the districts to which such spirits are shipped are calculated: *Provided, however*, That the salary of no collector shall exceed ten thousand dollars in the aggregate, or more than five thousand dollars exclusive of the expenses of administering the office: (c)

Ibid. § 18.

Accounts of commissioner of internal revenue.

112. It shall be the duty of the commissioner of internal revenue to pay over to the treasurer of the United States, monthly, or oftener, if required by the secretary of the treasury, all public moneys which may come into his hands or possession, for which the treasurer shall give proper receipts and keep a faithful account, and at the end of each month the commissioner as aforesaid shall render true and faithful accounts of all public moneys received or paid out, or paid to the treasurer of the United States, exhibiting proper vouchers therefor, and the same shall be received and examined by the fifth auditor of the treasury, who shall thereafter certify the balance, if any, and transmit the accounts, with the vouchers and certificate, to the first comptroller for his decision thereon; and the commissioner as aforesaid, when such accounts are settled as herein provided for, shall transmit a copy thereof to the secretary of the treasury. He shall at all times submit to the secretary of the treasury and the comptroller, or either of them, the inspection of moneys in his hands, and shall, prior to the entering upon the duties of his office, execute a bond, with sufficient sureties, to be approved by the secretary of the treasury and by the first comptroller, in a sum of not less than one hundred thousand

Bond.

(a) See Bout. 225.  
(b) Parties may be allowed for leakage only when the liquors are removed, under bond, for exportation, or when removed, under permit, from one collection district to another. The amount is to be ascertained by an inspection before removal and another on arrival at their destination, and by affidavit or other evidence

that the loss actually occurred by leakage. The amount allowed will not exceed one per cent. for every two hundred miles, and in no case five per cent. Dec. Com. May 1863.  
(c) These expenses include those of all forms, approved by the appointment, other than stationery, blank books, and postage. Dec. Com. Sept. 1863. No. 124.

dollars, payable to the United States, conditioned that said commissioner shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in obedience to law and in compliance with the order or regulations of the secretary of the treasury, all public moneys which may come into his hands or possession, and for the safe-keeping and faithful account of all stamps, adhesive stamps or vellum, parchment or paper bearing a stamp denoting any duty thereon; which bond shall be filed in the office of the first comptroller of the treasury, and such commissioner shall, from time to time, renew, strengthen and increase his official bond as the secretary of the treasury may direct.

8 March 1863.

113. The president shall appoint in the department of the treasury, by and with the advice and consent of the senate, a competent person, who shall be called the deputy commissioner of internal revenue, with an annual salary of twenty-five hundred dollars, who shall be charged with such duties in the bureau of internal revenue as may be prescribed by the secretary of the treasury, or as may be required by law, and who shall act as commissioner of internal revenue in the absence of that officer, and exercise the privilege of franking all letters and documents pertaining to the office of internal revenue.

Ibid. § 19.

Deputy commissioner.

Duties and salary.

114. The secretary of the treasury may appoint not exceeding three revenue agents, whose duties shall be under the direction of the secretary of the treasury, to aid in the prevention, detection and punishment of frauds upon the revenue, who shall be paid such compensation as the secretary of the treasury may deem just and reasonable, not exceeding two thousand dollars per annum. The above salaries to be paid in the same manner as are other expenses for collecting the revenue.

Ibid. § 20.

Revenue agents.

115. That the president of the United States be, and he is hereby, authorized to appoint, by and with the advice and consent of the senate, a competent person, who shall be called the cashier of internal duties, with a salary of twenty-five hundred dollars, who shall have charge of the moneys received in the office of the commissioner of internal revenue, and shall perform such duties as may be assigned to his office by said commissioner, under the regulations of the secretary of the treasury; and before entering upon his duties as cashier he shall give a bond with sufficient sureties, to be approved by the secretary of the treasury and by the solicitor, that he will faithfully account for all the moneys or other articles of value belonging to the United States which may come into his hands, and perform all the duties enjoined upon his office, according to law and regulations, as aforesaid; which bond shall be deposited with the first comptroller of the treasury.

Ibid. § 21.

Cashier of internal duties.

Duties and salary.

Bond.

116. In lieu of the pay allowed by law, the several assessors, from the date of their appointment, shall be allowed and paid a salary of fifteen hundred dollars per annum, payable quarterly, and in addition thereto, where the receipts of the collection district shall exceed the sum of two hundred thousand dollars, and shall not exceed the sum of four hundred thousand dollars annually, one-half of one per centum upon the excess of receipts over two hundred thousand dollars; where the receipts of a collection district shall exceed four hundred thousand dollars, and shall not exceed eight hundred thousand, one-fourth of one per centum upon the excess of receipts over four hundred thousand dollars; where the receipts shall exceed eight hundred thousand dollars, one-tenth of one per centum upon such excess; but the salary of no assessor shall in any case exceed the sum of three thousand dollars. And the several assessors shall be allowed and paid the sums actually expended for office rent, not exceeding the rate of five hundred dollars per annum. The commissioner of internal revenue, under the direction of the secretary of the treasury, is authorized to allow each assessor such clerks as he may deem necessary for the proper transaction of business, and to fix their compensation. Such assessors shall also be allowed their necessary and reasonable charges for postage actually paid on letters and documents received or sent, and exclusively relating to official business, and for stationery and blank books used in the execution of their duties; and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized. And assistant assessors shall, in addition to pay and charges allowed by law, also be allowed their necessary and reasonable charges for postage actually paid on letters and documents received or sent, and exclusively relating to official business: *Provided*, That the secretary of the treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in the states of California and Oregon, and the territories, as may appear to him to be just and equitable in consequence of the greater cost of living and travelling in those states and territories, and as may, in his judgment, be necessary to secure the services of competent and efficient men: *Provided further*, That the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such states and territories, respectively.

Ibid. § 22.

Compensation of assessors.

Office rent.

Clerks.

Postage.

Stationery.

On the Pacific, and in the territories.

3 March 1863 § 23.

Assistant assessors to render monthly accounts.

Appeals.

Penalty for fraudulent approval.

Ibid. § 31.

Duties illegally assessed may be refunded.

Ibid. § 36.

Accounts of officers in California, Oregon and Nevada.

Ibid. § 37.

Repealing and saving clauses.

117. Assistant assessors shall make out their accounts for pay and charges allowed by law, monthly, specifying each item, and including the date of each day of service, and shall transmit the same to the assessor of the district, who shall thereupon examine the same, and if it appear just and in accordance with law, he shall indorse his approval thereon, but otherwise shall return the same with objections. Any such account so approved may be presented by the assistant assessor to the collector of the district for payment, who shall thereupon pay the same, and, when receipted by the assistant assessor, be allowed therefor upon presentation to the commissioner of internal revenue. Where any account, so transmitted to the assessor, shall be objected to, in whole or in part, the assistant assessor may appeal to the commissioner of internal revenue, whose decision on the case shall be final; and should it appear, at any time, that any assessor has wilfully and corruptly approved any account as aforesaid, allowing any assistant assessor a sum larger than was due according to law, it shall be the duty of the commissioner of internal revenue, upon proper proof thereof, to deduct the sum so allowed from any pay which may be due to such assessor; or the commissioner as aforesaid may direct a suit to be brought in any court of competent jurisdiction against the assessor or assistant assessor in default, for the recovery of the amount wilfully and corruptly allowed, as hereinbefore mentioned.

118. That the commissioner of internal revenue, subject to the regulations of the secretary of the treasury, shall be and hereby is authorized to remit, refund and pay back all duties erroneously or illegally assessed or collected, and all judgments or sums of money recovered in any court against any collector or deputy collector for any duties or licenses paid under protest.(a)

119. The assistant treasurer of the United States at San Francisco is required, under such instructions as the commissioner of internal revenue shall prescribe, to audit, allow and pay the accounts for services of the collectors and assessors of California, Oregon and Nevada territory, subject to the revision of the said commissioner.

120. This act, except where otherwise indicated, shall take effect from and after its passage, and all acts and parts of acts repugnant to the provisions of this act be and the same are hereby repealed: *Provided*, That the existing laws shall extend to and be in force, as modified, for the collection of the duties imposed by this act, for the prosecution and punishment of all offences, and for the recovery, collection, distribution and remission of all fines, penalties and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter and thing to that effect, in the existing laws contained, had been inserted in and re-enacted by this act.(b)

### III. DUTIES ON SPIRITUOUS AND MALT LIQUORS.

1 July 1862 § 39.  
12 Stat. 446.

Collectors to grant licenses to distillers.

Bond.

Condition.

121. It shall be the duty of the collectors, within their respective districts, to grant licenses for distilling, which licenses shall contain the date thereof, the sum paid and the time when the same will expire, and shall be granted to any person, being a resident of the United States, who shall desire the same, by application in writing, to such collector, upon payment of the sum or duty payable by this act upon each license requested. And at the time of applying for said license, and before the same is issued, the person so applying shall give bond to the United States in such sum as shall be required by the collector, and with one or more sureties, to be approved by said collector, conditioned that in case any additional still or stills, or other implements to be used as aforesaid, shall be erected by him, his agent or superintendent, he will, before using, or causing or permitting the same to be used, report in writing to the said collector the capacity thereof, and information from time to time of any change in the form, capacity, ownership, agency or superintendence, which all or either of the said stills or other implements may undergo; and that he will, from day to day, enter or cause to be entered, in a book to be kept for that purpose, the number of gallons of spirits that may be distilled by said still or stills, or other implements, and also of the quantities of grain or other vegetable productions, or other substances put into the mash-tub, or otherwise used by him, his agent or superintendent, for the purpose of producing spirits, which said book shall be open at all times during the day (Sundays excepted) to the inspection of the said collector, who may make any memorandums or transcripts therefrom; and that he will render to the said collector, on the first, tenth and twentieth days of each and every month, or within five days thereafter, during the continuance of said license, an exact account, in writing, taken from his books, of the number of gallons of spirits distilled and sold, or removed for consumption or sale, by him, his agent or superintendent, and the proof thereof, and also of the quantities of grain or other vegetable productions, or other substances, put into the mash-tub, or otherwise used by him, his agent or superintendent, for the purpose of producing spirits, for the period or fractional part of a month

(a) See Bout. 298 for the regulations established by the commissioner, as to taxes improperly assessed or collected.  
(b) See Bout. 291.

then next preceding the date of said report, which said report shall be verified by affidavit in the manner prescribed by this act; and that he will not sell or permit to be sold, or removed for consumption or sale, any spirits distilled by him under and by virtue of his said license, until the same shall have been inspected, gauged and proved, and the quantity thereof duly entered upon his books as aforesaid; and that he will, at the time of rendering said account, pay to the said collector the duties which by this act are imposed on the spirits so distilled; and the said bond may be renewed or changed, from time to time, in regard to the amount and sureties thereof, according to the discretion of the collector.

1 July 1862.

122. The application in writing made by any person for a license for distilling as aforesaid, shall state the place of distilling, the number and capacity of the still or stills, boiler or boilers, and the name of the person, firm, company or corporation using the same; and any person making a false statement in either of the said particulars shall forfeit and pay the sum of one hundred dollars, to be recovered with costs of suit.

Ibid. § 40.

Form of application.

Penalty.

123. In addition to the duties payable for licenses herein provided, there shall be paid, on all spirits that may be distilled and sold, or removed for consumption or sale, of first proof, on and after the first day of August 1862, the duty of twenty cents on each and every gallon, which shall be paid by the owner, agent or superintendent of the still or other vessel in which the said spirituous liquors shall have been distilled; which duty shall be paid at the time of rendering the accounts of spirituous liquors so chargeable with duty, required to be rendered by this act: *Provided*, That the duty on spirituous liquors and all other spirituous beverages enumerated in this act shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of proof.

Ibid. § 41.

Duty on liquors distilled.

124. The term first proof used in this act and in section six of the act of March 2d 1861, entitled "An act to provide for the payment of outstanding treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," shall be construed, and is hereby declared to mean, that proof of a liquor which corresponds to fifty degrees of Tralles' centesimal hydrometer, adopted by regulation of the treasury department of August 12th 1850, at the temperature of sixty degrees of Fahrenheit's thermometer. And in reducing the temperatures to the standard of sixty, and in levying duties on liquors above and below proof, the table of commercial values, contained in the manual for inspectors of spirits, prepared by Professor McCulloh, under the superintendence of Professor Bache, and adopted by the treasury department, shall be used and taken as giving the proportions of absolute alcohol in the liquids gauged and proved, according to which duties shall be levied.

Ibid. § 42.

How proof of liquors to be determined.

125. There shall be designated by the collector in every assessment district where the same may be necessary, one or more inspectors who shall take an oath faithfully to perform their duties in such form as the commissioner of internal revenue shall prescribe, and who shall be entitled to receive such fees as may be fixed and prescribed by said commissioner. And all spirits distilled as aforesaid by any person licensed as aforesaid, shall, before the same is used, or removed for consumption or sale, be inspected, gauged and proved by some person so as aforesaid designated for the performance of such duties, and who shall mark upon the cask or other package containing such spirits, in a manner to be prescribed by said commissioner, the quantity and proof of the contents of such cask or package, with the date of inspection and the name of the inspector. And any person who shall attempt fraudulently to evade the payment of duties upon any spirits distilled as aforesaid, by changing in any manner the mark upon any such cask or package, shall forfeit the sum of five hundred dollars for each cask or package so altered or changed, to be recovered as hereinbefore provided. And the fees of such inspector shall in all cases be paid by the owner of the spirits so inspected, gauged and proved. And any such inspector who shall knowingly put upon any such cask or package any false or fraudulent mark, shall be liable to the same penalty hereinbefore provided for each cask or package so fraudulently marked. \* \* And any person who shall fraudulently use any cask or package so marked for the purpose of selling any other spirits than that so inspected, or for selling spirits of a quality or quantity different from that so inspected, shall be subject to a like penalty, as provided for each cask or package so used. (a)

Ibid. § 43.

Inspectors to be appointed.

Inspection.

Penalty for evasion of duties.

Fees.

Penalty for fraudulent marking.

126. The owner or owners of any distillery (b) may erect, at his or their own expense, a warehouse of iron, stone or brick, with metal or other fire-proof roof; (c) \* \* and such warehouse, when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing distilled spirits, and to be under the custody of the collector or his deputy. And the duty on the spirits stored in such

Ibid. § 44.

Bonded warehouses.

(a) So amended by act 3 March 1863. 12 Stat. 714.

Bout. 228. And see Ibid. 291, 294.

(b) This includes a coal-oil distillery. Dec. Com. Oct. 1862.

(c) See act 3 March 1863. 12 Stat. 714.

1 July 1862.

Ibid. § 45.

Accounts to be kept of liquors distilled.

When to be rendered to collectors.

Accounts of grain, &amp;c., used.

Entries to be sworn to.

Payment of duties.

Ibid. § 46.

Permits to be granted for shipment of liquors.

Bills of lading to be in name of collector.

Collection of duties thereon.

Storage.

Ibid. § 47.

Removal of liquors and refined coal oil for exportation.

Bond to be given.

warehouse shall be paid when and as it is sold or removed from such warehouse for sale.

127. Every person who, on the first day of August 1862, shall be the owner of any still, boiler or other vessel, used or intended to be used for the purpose of distilling spirituous liquors as hereinbefore provided, or who shall have such still, boiler or other vessel under his superintendence, either as agent for the owner or on his own account, and every person who, after said day, shall use or intend to use any still, boiler or other vessel as aforesaid, either as owner, agent or otherwise, shall from day to day make true and exact entry, or cause to be entered, in a book to be kept by him for that purpose, the number of gallons of spirituous liquors distilled by him, and also the number of gallons sold, or removed for consumption or sale, and the proof thereof, which book shall always be open in the daytime, Sundays excepted, for the inspection of the said collector, who may take any minutes, memorandums or transcripts thereof; and shall render to said collector, on the first, tenth and twentieth days of each and every month in each year, or within five days thereafter, a general account in writing, taken from his books, of the number of gallons of spirituous liquors distilled and sold, or removed for consumption or sale, and the proof thereof, for the period or fractional part of a month preceding said day, or for such portion thereof as may have elapsed from the date of said entry and report to the said day which shall next ensue; and shall also keep a book or books, in a form to be prescribed by the commissioner of internal revenue, and to be open at all seasonable hours for inspection by the collector and assessor of the district, wherein shall be entered, from day to day, the quantities of grain, or other vegetable productions or other substances put into the mash-tub by him, his agent or superintendent, for the purpose of producing spirits; and shall verify, or cause to be verified, the said entries, reports, books and general accounts, by oath or affirmation, to be taken before the collector or some other officer authorized by the laws of the state to administer the same, according to the form required by this act, where the same is prescribed; and shall also pay to the collector the duties which by this act ought to be paid on the spirituous liquors so distilled and sold, or removed for consumption or sale, and in said accounts mentioned, at the time of rendering an account thereof.

128. The collector of any district may grant a permit to the owner or owners of any distillery within his district, to send or ship any spirits, the product of said distillery, after the quantity and proof thereof shall have been ascertained by inspection according to the provisions of this act, to any place without said district and within the United States; and in such case the bill of lading or receipt (which shall be in such form as the commissioner of internal revenue may direct) of the same shall be taken in the name of the collector of the district in which the distillery is situate, and the spirits aforesaid shall be consigned, in such bill of lading or receipt, to the collector of the district in which the place is situate whither the spirits is sent or shipped, and the amount of duties upon said spirits shall be stated in the receipt; and upon the arrival of the spirits, and upon the demand of the collector aforesaid, the agent of the distillery (and the name of the agent, for the convenience of the collector, shall always appear in the bill of lading or receipt) shall pay the duties upon the said spirits, with the expense of freight and every other expense which has accrued thereupon; and the said collector, upon the payment of the duties aforesaid, shall deliver the bill of lading or receipt and the spirits to the agent of the said distillery; and if the duties are not paid as aforesaid, then the said spirits shall be stored at the risk and cost of the owner or agent thereof, who shall pay an addition of ten per centum thereupon; and all the general provisions of this act, in reference to liens, penalties and forfeitures, as also in reference to the collection, shall apply thereto and be enforced by the collector of the district in which the spirits may be: *Provided*, That no permit shall be granted under this section for a quantity less than fifty barrels: *And provided further*, That the commissioner of internal revenue, under the direction of the secretary of the treasury, may make such further regulations and require such further securities, as he may deem proper in order to protect the revenue and to carry out the spirit and intent of this section.

129. Distilled spirits may be removed from the place of manufacture, for the purpose of being exported, or for the purpose of being redistilled for export, and refined coal oil may be removed for the purpose of being exported, after the quantity of spirits or oil so removed shall have been ascertained by inspection, according to the provisions of this act, upon and with the written permission of the collector or deputy collector of the district, without payment of the duties thereon previous to such removal, the owner thereof having first given bond to the United States, (a) with sufficient sureties, in the manner and form and under regulations prescribed by the commissioner of internal

(a) The bond must be given by the owner, before removal. When given, the spirits or oil may be exported, without the intervention of the collector. Dec. Com. Oct. 1862. Bout. 237. And see Ibid. 238, 260.

revenue, and in at least double the amount of said duties, to export the said spirits or oil or pay the duties thereon, within such time as may be prescribed by the commissioner, which time shall be stated in said bond: *Provided*, That any person desiring to give such bond shall first make oath before the collector or deputy collector to whom he may apply for a permit to remove any such spirits or oil, in manner and form to be prescribed by said commissioner, that he intends to export such liquors or oil, and that he desires to obtain said permit for no other purpose whatever; and any collector or deputy collector is hereby authorized to administer such oath: *And provided further*, That no such removal shall be permitted where the amount of duties does not exceed the sum of three hundred dollars, nor in any case where the person desiring such permission has failed to perform the obligation of any bond previously given to the United States for the removal of any such articles, until the same shall have been fully kept and performed. And the collector of the district in which any such bond may be given, is authorized to cancel said bond on payment of said duties, with interest thereon, at a rate to be fixed by said commissioner, and all proper charges, if said liquors or oil shall not have been exported, or upon satisfactory proof that the same have been duly exported as aforesaid. And in case of the breach of the obligation of any such bond, the same shall be forthwith forwarded by the collector of the district to the commissioner of internal revenue, to be by him placed in the hands of the first comptroller of the treasury, who shall cause the same proceedings to be taken thereon, for the purpose of collecting the duties, interest and charges aforesaid, as are provided in this act in case of a delinquent collector.

1 July 1862.

Oath.

When bond to be cancelled.

Proceedings in case of breach.

130. The entries made in the books of the distiller, required to be kept in the foregoing section, shall, on the first, tenth and twentieth days of each and every month, or within five days thereafter, be verified by oath or affirmation, to be taken as aforesaid, of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the collector or officer administering the same, and shall be, in substance, as follows: "*I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled and sold, or removed for consumption or sale, at the distillery owned by —, in the county of —, amounting to — gallons, according to proof prescribed by the laws of the United States.*"

Ibid. § 48.

Entries of distiller to be verified on oath.

Form of oath.

131. The owner, agent or superintendent aforesaid shall, in case the original entries required to be made in his books by this act shall not have been made by himself, subjoin to the oath or affirmation of the person by whom they were made the following oath or affirmation, to be taken as aforesaid: "*I do swear (or affirm) that to the best of my knowledge and belief the foregoing entries are just and true, and that I have taken all the means in my power to make them so.*"

Ibid. § 49.

Oath when entries made by another.

132. On and after the first day of August 1862, there shall be paid on all beer, lager beer, ale, porter and other similar fermented liquors, by whatever name such liquors may be called, a duty of one dollar for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for fractional parts of a barrel, (a) which shall be brewed or manufactured and sold or removed for consumption or sale within the United States or the territories thereof, or within the District of Columbia, after that day; which duty shall be paid by the owner, agent or superintendent of the brewery or premises in which such fermented liquors shall be made, and shall be paid at the time of rendering the accounts of such fermented liquors so chargeable with duty as required to be rendered by the following section of this act: *Provided*, That fractional parts of a barrel shall be halves, quarters, eighths and sixteenths, and any fractional part containing less than one-sixteenth shall be accounted one-sixteenth; more than one-sixteenth, and not more than one-eighth, shall be accounted one-eighth; more than one-eighth, and not more than one-quarter, shall be accounted one-quarter; more than one-quarter, and not more than one-half, shall be accounted one-half; more than one-half shall be accounted one barrel.

Ibid. § 50.

Duties on malt liquors.

By whom paid.

133. Every person who, on said first day of August 1862, shall be the owner or occupant of any brewery or premises used or intended to be used for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence, as agent for the owner or occupant, or shall have in his possession or custody any vessel or vessels intended to be used on said premises in the manufacture of beer, lager beer, ale, porter or other similar fermented liquors, either as owner, agent or otherwise, shall from day to day [enter or cause to be entered in a book to be kept by him for that purpose, and which shall be open at all times, except Sundays, between the rising and setting of the sun, for the inspection of said collector, who may

Ibid. § 51.

Accounts to be kept of amounts brewed.

(a) See *supra* 110.



- 1 July 1862. take any minutes or memorandums or transcripts thereof, the quantities of grain or other vegetable productions or other substances, put into the mash-tub, or otherwise used for the purpose of producing beer, or for any other purpose, (a) and the quantity or number of barrels and fractional parts of barrels of fermented liquors made and sold, or removed for consumption or sale, keeping separate account of the several kinds and descriptions; and shall render to said collector, on the first day of each month in each year, or within ten days thereafter, a general account, in writing, taken from his books, of the quantities of grain, or other vegetable productions or other substances, put into the mash-tub, or otherwise used, for the purpose of producing beer, or for any other purpose, and the quantity or number of barrels and fractional parts of barrels of each kind of fermented liquors made and sold, or removed for consumption or sale, for one month preceding said day; and shall verify or cause to be verified the said entries, reports, books and general accounts, on oath or affirmation, to be taken before the collector or some officer authorized by the laws of the state to administer the same, according to the form required by this act, where the same is prescribed; and shall also pay to the said collector the duties which by this act ought to be paid on the liquor made and sold, or removed for consumption or sale, and in the said accounts mentioned, at the time of rendering the account thereof, as aforesaid. But where the manufacturer of any beer, lager beer or ale manufactures the same in one collection district, and owns or hires a depot or warehouse for the storage and sale of such beer, lager beer or ale in another collection district, he may, instead of paying to the collector of the district where the same was manufactured the duties chargeable thereon, present to such collector or his deputy an invoice of the quantity or number of barrels about to be removed for the purpose of storage and sale, specifying in such invoice, with reasonable certainty, the depot or warehouse in which he intends to place such beer, lager beer or ale; and thereupon such collector or deputy shall indorse on such invoice his permission for such removal, and shall at the same time transmit to the collector of the district in which such depot or warehouse is situated a duplicate of such invoice; and thereafter the manufacturer of the beer, lager beer or ale so removed shall render the same account and pay the same duties, and be subject to the same liabilities and penalties as if the beer, lager beer or ale so removed had been manufactured in the district. The commissioner of internal revenue may prescribe such rules as he may deem necessary for the purpose of carrying the provisions of this section into effect. (b)
- Returns to be made monthly.**
- To be sworn to.**
- Payment of duties.**
- Proceedings where brewery is in one district and warehouse in another.**
- Ibid. § 52.**
- Oath to entries.**
134. The entries made in the books required to be kept by the foregoing section shall, on said first day of each and every month, or within ten days thereafter, be verified by the oath or affirmation, to be taken as aforesaid, of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the collector or officer administering the same, and shall be, in substance, as follows: "*I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of fermented liquors either brewed, or brewed and sold, at the brewery owned by —, in the county of —, amounting to — barrels.*"
- Ibid. § 53.**
- Oath where entries made by another.**
135. The owner, agent or superintendent aforesaid shall, in case the original entries required to be made in his books shall not have been made by himself, subjoin to the oath or affirmation the following oath or affirmation, to be taken as aforesaid: "*I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so.*"
- Ibid. § 54.**
- Penalty for making false entries.**
136. The owner, agent or superintendent of any vessel or vessels used in making fermented liquors, or of any still, boiler or other vessel used in the distillation of spirits on which duty is payable, who shall neglect or refuse to make true and exact entry and report of the same, or to do or cause to be done any of the things by this act required to be done as aforesaid, shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, and the stills, boilers and other vessels used in distillation, together with the sum of five hundred dollars, to be recovered with costs of suit; which said liquors or spirits, with the vessels containing the same, with all the vessels used in making the same, may be seized by any collector of internal duties, and held by him until a decision shall be had thereon according to law: *Provided*, That such seizure be made within thirty days after the cause for the same may have occurred, and that proceedings to enforce said forfeiture shall have been commenced by such collector within twenty days after the seizure thereof. And the proceedings to enforce said forfeiture of said property shall be in the nature of a proceeding *in rem*, in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction.
- Proceedings to enforce forfeiture**
- Ibid. § 55.**
137. In all cases in which the duties aforesaid, payable on spirituous liquors distilled

(a) See *in tra* 139.(b) See *Bout.* 246.

and sold, or removed for consumption or sale, or beer, lager beer, ale, porter and other similar fermented liquors, shall not be paid at the time of rendering the account of the same, as herein required, or at the time when they shall have become payable, (a) the person or persons chargeable therewith shall pay, in addition, ten per centum on the amount thereof; and, until such duties with such addition shall be paid, they shall be and remain a lien upon the distillery where such liquors have been distilled, or the brewery where such liquors have been brewed, and upon the stills, boilers, vats and all other implements thereto belonging, until the same shall have been paid. And in case of refusal or neglect to pay said duties, with the addition, within ten days after the same shall have become payable, the amount thereof may be recovered by distraint and sale of the goods, chattels and effects of the delinquent; and, in case of such distraint, it shall be the duty of the officer charged with the collection to make or cause to be made an account of the goods, chattels or effects which may be distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels or effects, at his, her or their dwelling, with a note of the sum demanded, and the time and place of sale; and said officer shall forthwith cause a notification to be published in some newspaper, if any there be, within the county, and publicly posted up at the post office nearest to the residence of the person whose property shall be distrained, or at the court-house of the same county, if not more than ten miles distant, which notice shall specify the articles distrained, and the time and place proposed for the sale thereof, which time shall not be less than ten days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint: *Provided*, That in every case of distraint for the payment of the duties aforesaid, the goods, chattels or effects so distrained may and shall be restored to the owner or possessor, if, prior to the sale thereof, payment or tender thereof shall be made to the proper officer charged with the collection, of the full amount demanded, together with such fee for levying and advertising, and such sum for the necessary and reasonable expenses of removing and keeping the goods, chattels and effects so distrained, as may be allowed in like cases by the laws or practice of the state or territory wherein the distraint shall have been made; but in case of non-payment or neglect to tender as aforesaid, the said officer shall proceed to sell the said goods, chattels and effects at public auction, after due notice of the time and place of sale, and may and shall retain from the proceeds of such sale, the amount demandable for the use of the United States, with the said necessary and reasonable expenses of said distraint and sale as aforesaid, and a commission of five per centum thereon for his own use; rendering the overplus, if any there be, to the person whose goods, chattels and effects shall have been distrained.

1 July 1862.

Additional duty if not paid in time prescribed.

Duties to be a lien.

To be recoverable by distress.

Proceedings thereon.

Right of redemption.

Sales to be public.

138. Every person licensed as aforesaid to distil spirituous liquors, or licensed as a brewer, shall, once in each month, upon the request of the assessor or assistant assessor for the district in which his business as a distiller or brewer may be carried on, respectively, furnish the said assessor or assistant assessor with an abstract of the entries upon his books, herein provided to be made, showing the amount of spirituous liquor distilled and sold, or removed for consumption or sale, or of beer, lager beer, ale, porter or other fermented liquor made and sold, or removed for consumption or sale, during the preceding month, respectively; the truth and correctness of which abstract shall be verified by the oath of the party so furnishing the same. And the said assessor or assistant assessor shall have the right to examine the books of such person for the purpose of ascertaining the correctness of such abstract. And for any neglect to furnish such abstract when requested, or refusal to furnish an examination of the books as aforesaid, the person so neglecting shall forfeit the sum of five hundred dollars. (b)

Ibid. § 56.

Monthly abstracts to be furnished.

139. Any brewer of ale, beer, lager beer, porter or other malt liquors, shall be required to render accounts and make returns on the first day of each and every month, and no oftener; and no brewer of ale, beer, lager beer, porter or other malt liquors, shall hereafter be required to keep a record or an account, or to report or return the quantities of grain or other vegetable productions, or other substances put into the mash-tub by him or his agent or superintendent for the purpose of producing malt liquors, any law to the contrary notwithstanding.

3 March 1863 § 13.  
12 Stat. 723.

Brewers' returns

## IV. LICENSES.

140. From and after the first day of August 1862, no person, association of persons or corporation, shall be engaged in, prosecute or carry on, either of the trades or occupations mentioned in section 64 of this act, until he or they shall have obtained a license therefor in the manner hereinafter provided. (c)

1 July 1862 § 57.  
12 Stat. 453.

Certain trades not to be carried on without license.

(a) So amended by act 3 March 1863. 12 Stat. 714.

(b) See Bout. 181, 186.

(c) If a person holds out to the public by words, deeds or writ-

ting, that he is engaged in any kind of business requiring license he must take a license therefor, although the business in question may not be his chief or exclusive occupation. Dec. Com. Oct.

1 July 1862 § 58.

How application  
for license to be  
made.

141. Every person, association of persons, partnership or corporation, desiring to obtain a license to engage in any of the trades or occupations named in the 64th section of this act, shall register with the assistant assessor of the assessment district in which he shall design to carry on such trade or occupation: I. His or their name or style; and in case of an association or partnership, the names of the several persons constituting such association or partnership, and their places of residence; II. The trade or occupation for which a license is desired; III. The place where such trade or occupation is to be carried on; IV. If a rectifier, the number of barrels he designs to rectify; if a pedlar, whether he designs to travel on foot, or with one, two or more horses; if an innkeeper, the yearly rental of the house and property to be occupied for said purpose; or, if not rented, the assistant assessor shall value the same. All of which facts shall be returned duly certified by such assistant assessor, both to the assessor and collector of the district; and thereupon, upon payment to the collector or deputy collector of the district the amount as hereinafter provided, such collector or deputy collector shall make out and deliver a license for such trade or occupation, which license shall continue in force for one year, at the place or premises described therein.(a)

When license to  
issue.

Ibid. § 59.

Penalty for car-  
rying on such  
trade without  
license.

142. If any person or persons shall exercise or carry on any trade or business hereinafter mentioned for the exercising or carrying on of which trade or business a license is required by this act, without taking out such license as is in that behalf required, he, she or they shall, for every such offence respectively, forfeit a penalty equal to three times the amount of the duty or sum of money imposed for such license, one moiety thereof to the use of the United States, the other moiety to the use of the person who, if a collector, shall first discover, and if other than a collector, shall first give information of, the fact whereby said forfeiture was incurred.(b)

Ibid. § 60.

Form of license.

143. In every license to be taken out under or by authority of this act shall be contained and set forth the purpose, trade or business for which such license is granted, and the true name and place of abode of the person or persons taking out the same; if for a rectifier, the quantity of spirits authorized to be rectified; if by a pedlar, whether authorized to travel on foot, or with one or two or more horses, the time for which such license is to run, and the true date or time of granting such license; and (except in the case of auctioneers and pedlars) the place at which the trade or business for which such license is granted shall be carried on: *Provided*, That a license granted under this act shall not authorize the person or persons, association or corporation mentioned therein, to exercise or carry on the trade or business specified in such license in any other place than that mentioned therein, but nothing herein contained shall prohibit the storage of goods, wares or merchandise in other places than the place of business.(c)

To be restricted  
to the place men-  
tioned.

Ibid. § 61.

When several  
licenses required.

144. In every case where more than one of the pursuits, employments or occupations, hereinafter described, shall be pursued or carried on in the same place by the same person at the same time, except as therein mentioned, license must be taken out for each according to the rates severally prescribed.

Ibid. § 62.

Auctioneers not  
to sell at private  
sale, by virtue of  
auctioneers' li-  
cense.

145. No auctioneer shall be authorized by virtue of his license as such auctioneer to sell any goods or other property at private sale; and if any such person shall sell any such goods or commodities as aforesaid, otherwise than by auction, without having taken out such license as aforesaid for that purpose, he or she shall be subject and liable to the penalty in that behalf imposed upon persons dealing in or retailing, trading or selling any such goods or commodities without license, notwithstanding any license to him or her before granted as aforesaid, for the purpose of exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements or hereditaments by auction, anything herein contained to the contrary notwithstanding: *Provided always*, That where such goods or commodities as aforesaid are the property of any person or persons duly licensed to deal in or retail, or trade in, or sell the same, such person or persons having made lawful entry of his, her or their house or premises for such purpose, it shall and may be lawful for any person exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements or hereditaments, by auction as aforesaid, being duly licensed for that purpose, to sell such goods or commodities as aforesaid at auction, for and on behalf of such person or persons, and upon his, her or their entered house or premises, without taking out a separate license for such sale. The provisions of this section shall not apply to judicial or executive officers making auction sales by virtue of any judgment or decree of any court, nor public sales made by executors and administrators.

Where auction-  
eers may sell.Not to apply to  
judicial sales, &c.

Ibid. § 63.

146. Upon the death of any person or persons licensed under or by virtue of this act, or upon the removal of any such person or persons from the house or premises at which

1862. Bont. 224. Producers whose products are enumerated and taxed in § 75, are not required to take out a license as dealers in the sale of such products upon the premises where produced; but producers of articles named in § 75 as not being manufactures, and which are not taxed, must be licensed as dealers in such

articles upon the premises where produced. Dec. Com. Dec. 1862. Bont. 245.

(a) See Bont. 172, 178, 262.

(b) See *infra* 196. And see *ante* 197, note 4, as to costs.

(c) See *infra* 196.

he, she or they were authorized by such license to exercise or carry on the trade or business mentioned in such license, it shall and may be lawful for the person or persons authorized to grant licenses to authorize and empower, by indorsement on such license or otherwise, as the commissioner of internal revenue shall direct, the executors or administrators or the wife or child of such deceased person, or the assignee or assigns of such person or persons so removing as aforesaid, who shall be possessed of and occupy the house or premises before used for such purpose as aforesaid, in like manner to exercise or carry on the same trade or business mentioned in such license, in or upon the same house or premises at which such person or persons as aforesaid deceased or removing as before mentioned, by virtue of such license to him, her or them, in that behalf granted, before exercised or carried on such trade or business for or during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty, or any fee thereupon for the residue of such term, and until expiration thereof: *Provided always*, That a fresh entry of the premises at which such trade or business shall continue to be so exercised or carried on as aforesaid shall thereupon be made by and in the name or names of the person or persons to whom such authority as aforesaid shall be granted.(a)

1 July 1862.

Transfer of licenses.

147. On and after the first day of August 1862, for each license granted the sum herewith stated shall be respectively and annually paid. Any number of persons carrying on such business in copartnership may transact such business at such place under such license, and not otherwise.(b)

Ibid. § 64.

Rates of license.

148. I. Bankers shall pay one hundred dollars for each license. Every person shall be deemed a banker within the meaning of this act who keeps a place of business where credits are opened in favor of any person, firm or corporation, by the deposit or collection of money or currency, and the same or any part thereof shall be paid out or remitted upon the draft, check or order of such creditor, but not to include incorporated banks or other banks legally authorized to issue notes as circulation, nor agents for the sale of merchandise for account of producers or manufacturers.(c)

Bankers.

149. II. Auctioneers shall pay twenty dollars for each license. Every person shall be deemed an auctioneer within the meaning of this act whose occupation it is to offer property for sale to the highest or best bidder.(d)

Auctioneers.

150. III. Wholesale dealers in liquors of any and every description, including distilled spirits, fermented liquors and wines of all kinds, shall pay one hundred dollars for each license. Every person other than the distiller or brewer, who shall sell or offer for sale any such liquors or wines in quantities of more than three gallons at one time to the same purchaser, shall be regarded as a wholesale dealer in liquors within the meaning of this act.(e)

Wholesale dealers in liquors.

151. IV. Retail dealers in liquors, including distilled spirits, fermented liquors and wines of every description, shall pay twenty dollars for each license. Every person who shall sell or offer for sale such liquors in less quantities than three gallons at one time to the same purchaser, shall be regarded as a retail dealer in liquors under this act. But this shall not authorize any spirits, liquors, wines or malt liquors to be drunk on the premises.(g)

Retail liquor dealers.

152. V. Retail dealers shall pay ten dollars for each license. [Every person whose business or occupation is to sell or offer to sell groceries or any goods, wares or merchandise, or foreign or domestic production, in less quantities than a whole original piece or package at one time to the same person (not including wines, spirituous or malt liquors, but not excluding drugs, medicines, cigars, snuff or tobacco), shall be regarded as a retail dealer under this act.](h)

Retail dealers.

153. VI. Wholesale dealers shall pay fifty dollars for each license. Every person whose business or occupation is to sell or offer to sell groceries, or any goods, wares or merchandise of foreign or domestic production, by one or more original package or piece at one time to the same purchaser, not including wines, spirituous or malt liquors, shall be deemed a wholesale dealer under this act; but having taken out a license as a wholesale dealer, such person may also sell as aforesaid as a retailer.(i)

Wholesale dealers.

154. VII. Pawnbrokers shall pay fifty dollars for each license. Every person whose business or occupation is to take or receive, by way of pledge, pawn or exchange any goods, wares or merchandise, or any kind of personal property whatever, for the repayment or security of money lent thereon, shall be deemed a pawnbroker under this act.

Pawnbrokers.

(a) See *infra* 197, and Bont. 172, 179.

(b) In order that one license may avail for the several members of a firm, the assessor must be satisfied: 1. That a legal and *bona fide* partnership exists: 2. That the parties have a place of business and only one place, common to them all: 3. That the members are mutually responsible for each other; and that they jointly share the profits, and are responsible for the losses of a common business: 4. That in no case, do the parties transact a similar business on private account. Dec. Com. Oct. 1862. Bont. 223.

(c) See Bont. 225, 239, 200.

(d) An auctioneer can sell the goods of a licensed dealer, in

such dealer's store; but he cannot sell the goods of an unlicensed dealer, who is subject to a license tax, without incurring the penalty. An auctioneer can sell such goods as are not usually included in the stock of a dealer, whereever situated, without a special license therefor. Dec. Com. Oct. 1862. Bont. 231. And see *infra* 196.

(e) See *infra* 189, and Bont. 228.

(g) See *infra* 190.

(h) See *infra* 187.

(i) See *infra* 188.

1 July 1862.

Rectifiers.

155. VIII. Rectifiers shall pay twenty five dollars for each license to rectify any quantity of spirituous liquors, not exceeding five hundred barrels or casks, containing not more than forty gallons to each barrel or cask of liquor so rectified; and twenty-five dollars additional for each additional five hundred such barrels, or any fractional part thereof. (a) Every person who rectifies, purifies or refines spirituous liquors or wines by any process, or mixes distilled spirits, whiskey, brandy, gin or wine with any other materials for sale under the name of whiskey, rum, brandy, gin, wine or any other name or names, shall be regarded as a rectifier under this act.

Distillers.

156. IX. Distillers shall pay fifty dollars for each license, and every person or copartnership who distills or manufactures spirituous liquors for sale, shall be deemed a distiller under this act: *Provided*, That any person or copartnership distilling or manufacturing less than three hundred barrels per year shall pay twenty-five dollars for a license. *And provided further*, That no license shall be required for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical purposes which has been used in those processes. *And provided further*, That distillers of apples and peaches, distilling or manufacturing less than one hundred and fifty barrels per year from the same, shall pay twelve and one-half dollars for a license for that purpose, and for a greater quantity, as other distillers.

Brewers.

157. X. Brewers shall pay fifty dollars for each license. Every person who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, shall be deemed a brewer under this act: *Provided*, That any person who manufactures less than five hundred barrels per year shall pay the sum of twenty-five dollars for a license. (b)

Inns and taverns.

158. XI. Hotels, inns and taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be occupied for said purposes, as follows, to wit: All cases where the rent or the valuation of the yearly rental of said house and property shall be ten thousand dollars or more shall constitute the first class, and shall pay two hundred dollars for each license; where the rent or the valuation of the yearly rental shall be five thousand dollars and less than ten thousand dollars, the second class, and shall pay one hundred dollars for each license; where the rent or the valuation of the yearly rental shall be twenty-five hundred dollars and less than five thousand dollars, the third class, and shall pay seventy-five dollars for each license; where the rent or the valuation of the yearly rental shall be one thousand dollars and less than twenty-five hundred dollars, the fourth class, and shall pay fifty dollars for each license; where the rent or the valuation of the yearly rental shall be five hundred dollars and less than one thousand dollars, the fifth class, and shall pay twenty-five dollars for each license; where the rent or the valuation of the yearly rental shall be three hundred dollars and less than five hundred dollars, the sixth class, and shall pay fifteen dollars for each license; where the rent or the valuation of the yearly rental shall be one hundred dollars and less than three hundred dollars, the seventh class, and shall pay ten dollars for each license; where the rent or the valuation of the yearly rental shall be less than one hundred dollars, the eighth class, and shall pay five dollars for each license. (c) Every place where food and lodging are provided for and furnished to travellers and sojourners, in view of payment therefor, shall be regarded as a hotel, inn or tavern under this act. All steamers and vessels upon waters of the United States, on board of which passengers or travellers are provided with food or lodging, shall be required to take out a license of the fifth class, as aforesaid, under this act. (d) The rental or estimated rental shall be fixed and established by the assessor of the proper district at its proper value, but at not less than the actual rent agreed on by the parties: *Provided*, That if there be any fraud or collusion in the return of actual rent to the assessor, there shall be a penalty equal to double the amount of licenses required by this section, to be collected as other penalties under this act are collected.

Eating-houses.

159. XII. Eating-houses shall pay ten dollars for each license. Every place where food or refreshments of any kind are provided for casual visitors and sold for consumption therein, shall be regarded as an eating-house under this act. But the keeper of any eating-house having taken out a license therefor shall not be required to take out a license as a confectioner, anything in this act to the contrary notwithstanding.

Brokers.

160. XIII. Brokers shall pay fifty dollars for each license. Any person whose business is to purchase or sell stocks, coined money, bank-notes or other securities for them-

(a) The basis for calculating the amount of a rectifier's license, is the number of barrels, containing not more than 40 gallons each, produced by the process of rectification; and not the quantity of proof liquor used. Dec. Com. Oct. 1862. Bout. 226.

(b) See Bout. 245.

(c) An innkeeper's license does not authorize the retailing of

liquors. Dec. Com. April 1863. Bout. 270.

(d) The license of a steam or sailing packet must be taken out, and the tax paid, by the person, whether owner or agent, having its care or management, at the principal terminus or landing thereof. Dec. Com. Oct. 1862. Bout. 230.

selves or others, or who deals in exchanges relating to money, shall be regarded a broker under this act.(a) 1 July 1862.

161. XIV. Commercial brokers shall pay fifty dollars for each license. Any person or firm, except one holding a license as wholesale dealer or banker, whose business it is, as the agent of others, to purchase or sell goods, or seek orders therefor, in original or unbroken packages or produce, or to manage business matters for the owners of vessels, or for the shippers or consignors of freight carried by vessels, or whose business it is to purchase, rent or sell real estate for others, shall be regarded a commercial broker under this act.(b)

Commercial brokers.

162. XV. Land warrant brokers shall pay twenty-five dollars for each license. Any person shall be regarded as a land warrant broker, within the meaning of this act, who makes a business of buying and selling land warrants, and of furnishing them to settlers or other persons under contracts to have liens upon the land procured by means of them according to the value agreed on for the warrants at the time they are furnished.

Land warrant brokers.

163. XVI. Tobacconists shall pay ten dollars for each license. Any person whose business it is to sell at retail, cigars, snuff or tobacco in any form, shall be regarded a tobacconist under this act. But wholesale and retail dealers, and keepers of hotels, inns, taverns or eating houses,(c) having taken out a license therefor, shall not be required to take out a license as tobacconists, anything in this act to the contrary notwithstanding.

Tobacconists.

164. XVII. Theatres shall pay one hundred dollars for each license. Every edifice erected for the purpose of dramatic or operatic representations, plays or performances, and not including halls rented or used occasionally for concerts or theatrical representations, shall be regarded as a theatre under this act.(d)

Theatres.

165. XVIII. Circuses shall pay fifty dollars for each license. Every building, tent, space or area where feats of horsemanship or acrobatic sports are exhibited, shall be regarded as a circus under this act.

Circuses.

166. XIX. Jugglers shall pay for each license twenty dollars. Every person who performs by sleight of hand shall be regarded as a juggler under this act. The proprietors or agents of all other public exhibitions or shows for money, not enumerated in this section, shall pay for each license ten dollars: *Provided*, That no license procured in one state shall be held to authorize exhibitions in another state; and but one license shall be required under this act to authorize exhibitions within any one state.

Jugglers.

Public exhibitions.

167. XX. Bowling-alleys and billiard-rooms shall pay according to the number of alleys or tables belonging to or used in the building or place to be licensed. When not exceeding one alley or table, five dollars for each license; and when exceeding one alley or table, five dollars for each additional alley or table. Every place or building where bowls are thrown or billiards played, and open to the public with or without price, shall be regarded as a bowling-alley or billiard-room respectively under this act.(e)

Bowling alleys and billiard rooms.

168. XXI. Confectioners shall pay ten dollars for each license. Every person who sells at retail confectionery, sweetmeats, comfits or other confections, in any building, shall be regarded as a confectioner under this act. But wholesale and retail dealers having taken out a license therefor, shall not be required to take out a license as confectioner, anything in this act to the contrary notwithstanding.

Confectioners.

169. XXII. Horse dealers shall pay for each license the sum of ten dollars. Any person whose business it is to buy and sell horses or mules shall be regarded a horse dealer under this act: *Provided*, That if such horse dealer shall have taken out a license as a livery-stable keeper no new license shall be required.

Horse dealers.

170. XXIII. Livery-stable keepers shall pay ten dollars for each license. Any person whose occupation or business is to keep horses for hire or to let shall be regarded as a livery-stable keeper under this act.

Livery stables.

171. XXIV. Cattle brokers shall pay for each license the sum of ten dollars. Any person whose business it is to buy and sell and deal in cattle, hogs or sheep, shall be considered as a cattle broker.(g)

Cattle brokers.

172. XXV. Tallow-chandlers and soapmakers shall pay for each license the sum of ten dollars. Any person whose business it is to make or manufacture candles or soap shall be regarded as a tallow-chandler and soapmaker under this act.(h)

Tallow-chandlers and soapmakers.

(a) See Bout. 225. A bank of issue may draw against its funds accumulated in other places, in the ordinary course of business, and sell such drafts, without taking out a broker's license. But the buying of drafts whenever presented, and the selling of drafts, which are drawn on surplus funds, other than those accumulated in the ordinary course of business, require a broker's license. Dec. Com. April 1863. Bout. 260.

(b) A person engaged in settling an estate, who collects rents merely as an incident thereto, and not as an occupation, is not liable to a license as a commercial broker. Dec. Com. Oct. 1862. Bout. 225. Agents of domestic insurance companies are not considered commercial brokers. Dec. Com. Oct. 1862. Bout. 232. Persons buying produce, for themselves, and forwarding the same to wholesale or commission merchants for sale, are not taxable as commercial brokers; otherwise, if they buy for others. Dec. Com. Oct. 1862. Bout. 234. Persons who merely collect rents are not

commercial brokers; but when they purchase, rent or sell real estate for others, they must take a commercial broker's license. Dec. Com. Dec. 1862. Bout. 245. And see *infra* 188.

(c) Act 3 March 1863. 12 Stat. 714.

(d) An edifice erected and licensed as a theatre can only be used for dramatic and operatic representations, plays and performances. Dec. Com. Dec. 1862. Bout. 243.

(e) See Bout. 229.

(g) One who buys cattle to stock his farm, and by keeping them adds materially to their value, is not considered a cattle broker; if, however, his business be to buy and sell, without making material additions to the intrinsic value of the animals, he must be licensed. Dec. Com. Dec. 1862. Bout. 241. A firm of cattle brokers cannot transact business, in different places, at the same time, under one license. Bout. 319.

(h) See Bout. 316.

- 1 July 1862. 173. XXVI. Coal-oil distillers shall pay for each license the sum of fifty dollars. Any person who shall refine, produce or distil crude petroleum or rock-oil, or crude coal oil made of asphaltum, shale, peat or other bituminous substances, shall be regarded a coal-oil distiller under this act.
- Coal-oil distillers.
174. XXVII. Pedlars shall be classified and rated as follows, to wit: when travelling with more than two horses, the first class, and shall pay twenty dollars for each license: when travelling with two horses, the second class, and shall pay fifteen dollars for each license; when travelling with one horse, the third class, and shall pay ten dollars for each license; when travelling on foot, the fourth class, and shall pay five dollars for each license. Any person, except persons peddling newspapers, bibles or religious tracts, who sells or offers to sell at retail, goods, wares or other commodities, travelling from place to place in the street, or through different parts of the country, shall be regarded a pedlar under this act: (a) *Provided*, That any pedlar who sells, or offers to sell dry goods, foreign and domestic, by one or more original packages or pieces, at one time, to the same person or persons as aforesaid, shall pay fifty dollars for each license. And any person who peddles jewelry shall pay twenty-five dollars for each license: *Provided*, That manufacturers and producers of agricultural tools and implements, garden seeds, stoves and hollow-ware, brooms, wooden-ware and powder, delivering and selling at wholesale any of said articles, by themselves or their authorized agents at places other than the place of manufacture, shall not be required, for any sale thus made, to take out any additional license therefor.
- Pedlars.
175. XXVIII. Apothecaries shall pay ten dollars for each license. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, and sold, shall be regarded an apothecary under this act. But wholesale and retail dealers, who have taken out a license therefor, shall not be required to take out a license as apothecary, anything in this act to the contrary notwithstanding. Nor shall apothecaries who have taken out a license as such be required to take out a license as retail dealers in liquors, in consequence of selling alcohol. (b)
- Apothecaries.
176. XXIX. Manufacturers shall pay ten dollars for each license. (c) Any person or persons, firms, companies or corporations, who shall manufacture by hand or machinery, and offer for sale any goods, wares or merchandise, or who shall manufacture by hand or machinery, for any other person or persons, goods, wares or merchandise, (b) exceeding annually the sum of one thousand dollars, shall be regarded a manufacturer under this act.
- Manufacturers.
177. XXX. Photographers shall pay ten dollars for each license when the receipts do not exceed five hundred dollars; when over five hundred dollars and under one thousand dollars, fifteen dollars; when over one thousand dollars, twenty-five dollars. Any person or persons who make for sale photographs, ambrotypes, daguerreotypes or pictures on glass, metal or paper, by the action of light, shall be regarded a photographer under this act. (d)
- Photographers.
178. XXXI. Lawyers shall pay ten dollars for each license. (e) Every person whose business it is, for fee or reward, to prosecute or defend causes in any court of record or other judicial tribunal of the United States or of any of the states, or give advice in relation to causes or matters pending therein, shall be deemed to be a lawyer within the meaning of this act. No license shall be required of an attorney having taken out a license as such, in consequence of being employed to purchase, rent or sell real estate, or to collect rent thereon for others in the ordinary course of business. (b)
- Lawyers.
179. XXXII. Physicians, surgeons and dentists shall pay ten dollars for each license. Every person (except apothecaries) whose business it is, for fee and reward, to prescribe remedies or perform surgical operations for the cure of any bodily disease or ailment, shall be deemed a physician, surgeon or dentist, as the case may be, within the meaning of this act. (g)
- Physicians, surgeons and dentists.
180. XXXIII. Claim agents and agents for procuring patents shall pay ten dollars for each license. Every person whose business it is to prosecute claims in any of the executive departments of the federal government, or procure patents, shall be deemed a claim or patent agent, as the case may be, under this act. (h)
- Claim and patent agents.

(a) A dealer who employs a wagon to deliver his goods need not take out a pedlar's license; but one who travels from house to house for the purpose of selling is a pedlar within the act. Dec. Com. Oct. 1862. Bout. 230. Tree dealers, if they peddle their trees, must be licensed, as such; and also as dealers, if they have place of business. Dec. Com. Oct. 1862. Bout. 234. The practice of obtaining subscriptions for books, &c., and of delivering them, and receiving the money therefor, at the time of subscription or afterwards, is held to be peddling under this act. Dec. Com. Feb. 1863. Bout. 254. As to the effect of a pedlar's license, see *Ibid*.

(b) See act 3 March 1863. 12 Stat. 714.

(c) A manufacturer's license should be taken out in the district where the manufactory is situated. Dec. Com. Oct. 1862. Bout. 221. Job printers, engravers and lithographers are not required

to be licensed as manufacturers. Dec. Com. Dec. 1862. Bout. 239. (d) Photographers, duly licensed, may travel from place to place, in the exercise of their profession. Dec. Com. Bout. 230.

(e) A lawyer having taken out a license in a certain state for one year, may go into another state or county, on temporary employment. The act 3 March 1863 § 25, *infra* 196, is construed to authorize a lawyer to be connected with two or more offices, by virtue of a single license. Bout. 224.

(g) See *infra* 196. It includes a chiropodist. Bout. 319. And a veterinary surgeon. *Ibid*. 312.

(h) Persons who hold themselves out to the public as prepared to prosecute claims against the government or any of the executive departments, whether such claims be prosecuted in person or through correspondents, must be licensed as claim agents. Dec. Com. Dec. 1862. Bout. 240. And see *Ibid*. 310.

181. XXXIV. Architects and civil engineers shall pay ten dollars for each license. 8 March 1868 §1  
12 Stat. 714. Every person whose business it is to plan, design or superintend the construction of buildings, or ships, or of roads, or bridges, or canals, or railroads, shall be regarded as an architect and civil engineer under this act: *Provided*, That this shall not include a practical carpenter who labors on a building. Architects and civil engineers.

182. XXXV. Builders and contractors shall pay twenty-five dollars for each license. Builders and contractors. Every person whose business it is to construct buildings, or ships, or bridges, or canals, or railroads by contract, shall be regarded as a builder and contractor under this act: *Provided*, That no license shall be required from any person whose building contracts do not exceed two thousand five hundred dollars in any one year.

183. XXXVI. Stallions and jacks, owners of, shall pay ten dollars for each license. Owners of stallions and jacks. Every person who keeps a male horse or a jackass for the use of mares, requiring or receiving pay therefor, shall be required to take out a license under this act, which shall contain a brief description of the animal, its age and place or places where used or to be used: *Provided*, That all accounts, notes or demands for the use of any such horse or jack without a license as aforesaid, shall be invalid, and of no force in any court of law or equity. (a)

184. XXXVII. Lottery-ticket dealers shall pay one thousand dollars for each license. Lottery ticket dealers. Every person, association, firm or corporation who shall make, sell or offer to sell lottery tickets or fractional parts thereof, or any token, certificate or device representing or intended to represent a lottery ticket or any fractional part thereof, or any policy of numbers in any lottery, or shall manage any lottery or prepare schemes of lotteries, or superintend the drawing of any lottery, shall be deemed a lottery ticket dealer under this act. (b)

185. XXXVIII. Insurance agents shall pay ten dollars for each license. Insurance agents Any person who shall act as agent of any fire, marine, life, mutual or other insurance company or companies, shall be regarded as an insurance agent under this act: *Provided*, That no license shall be required of any insurance agent or broker whose receipts, as such agent, are less than the sum of six hundred dollars in any one year. (c)

186. XXXIX. Butchers shall pay ten dollars for each license. Butchers. Every person whose business it is to sell butchers' meat at retail shall be regarded as a butcher under this act: *Provided*, That no butcher having taken out a license, and paid ten dollars therefor, shall be required to take out a license as retail dealer on account of selling other articles at the same store, stall or premises: *Provided further*, That butchers who retail butchers' meat exclusively from a cart or wagon, by themselves or agents, shall be required to pay five dollars only for each license, any existing law to the contrary notwithstanding, and having taken out a license therefor, shall not be required to take out a license as a pedlar for retailing butchers' meat as aforesaid: *And provided further*, That no license shall be required of a butcher whose annual sales do not exceed one thousand dollars. (d)

187. XL. Retail dealers shall pay ten dollars for each license. Retail dealers. Every person whose business or occupation it is to sell or offer for sale any goods, wares or merchandise of foreign or domestic production, not including wines, spirituous or malt liquors, but not excluding drugs, medicines, cigars, snuff or tobacco, and whose annual sales exceed one thousand, and do not exceed twenty-five thousand dollars, shall be regarded as a retail dealer under this act. (e)

188. XLI. Wholesale dealers, whose annual sales do not exceed fifty thousand dollars, shall pay twenty-five dollars for each license; if exceeding fifty thousand, and not exceeding one hundred thousand dollars, shall pay fifty dollars for each license; exceeding one hundred thousand and not exceeding two hundred and fifty thousand dollars, shall pay one hundred dollars for each license; exceeding two hundred and fifty thousand and not exceeding five hundred thousand dollars, shall pay two hundred dollars for each license; exceeding five hundred thousand and not exceeding one million dollars, shall pay three hundred dollars for each license; exceeding one million and not exceeding two million dollars, shall pay five hundred dollars for each license; exceeding two millions of dollars, shall pay two hundred and fifty dollars for every million of dollars (g) in excess of two millions of dollars, in addition to the five hundred dollars. Every person shall be regarded as a wholesale dealer under this act whose business or occupation it is to sell or offer to sell any goods, wares or merchandise of foreign or domestic production, not including distilled spirits, fermented liquors or wines, but not excluding drugs, medicines, cigars, snuff or tobacco, whose annual sales exceed twenty-five thou-

(a) See Bont. 315.

(b) See Bont. 336.

(c) See Bont. 257.

(d) See Bont. 316.

(e) Nurserymen must take out license as dealers. Dec. Com. Oct. 1862. Bont. 234. And publishers of books, newspapers, &c. Dec. Com. Dec. 1862. Bont. 238. But no license is required by the

publisher of a newspaper who disposes of his papers exclusively through a commission house. *Ibid*.

Persons who sell from vessels, boats or barges, or who sell logs and lumber in rafts, may be assessed as dealers. Dec. Com. Dec. 1862. Bont. 250.

(g) This is construed to read "every million or fractional part of a million." Dec. Com.



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sand dollars; and the license required by any wholesale dealer shall not be for a less amount than his sales for the previous year, unless he has made or proposes to make some change in his business that will obviously reduce the amount of his annual sales; nor shall any license as wholesale dealer allow any such person to act as a commercial broker: *Provided*, That any license understated may be again assessed.

Wholesale liquor dealers.

189. XLII. Wholesale dealers in liquors shall pay for each license the amount required in this act for license to wholesale dealers. Every person, other than the distiller or brewer who shall sell or offer for sale any distilled spirits, fermented liquors and wines of all kinds, in quantities of more than three gallons at one time, or whose annual sales shall exceed twenty-five thousand dollars, shall take out a license as a wholesale dealer in liquors. (a)

Retail liquor dealers.

190. XLIII. Retail dealers in liquors shall pay twenty dollars for each license. Every person other than a distiller or brewer who shall sell or offer for sale any distilled spirits, fermented liquors or wine of any description, in quantities of three gallons or less, and whose annual sales do not exceed twenty-five thousand dollars, shall be regarded as a retail dealer in liquors under this law; but nothing herein contained shall authorize the sale of any spirits, liquors, wines or malt liquors to be drunk on the premises: *Provided*, That no person licensed to keep a hotel, inn or tavern shall be allowed to sell any liquors to be taken off the premises, and no person licensed to keep an eating-house shall be allowed to sell spirituous or vinous liquors. (b) And no person who has taken out a license to keep a hotel, inn, tavern or eating-house shall be required to take out a license as a tobacconist, because of any tobacco or cigars furnished in the usual course of business as a keeper of a hotel, inn, tavern or eating-house.

1 July 1862 § 65.  
12 Stat. 459.Certain persons  
need not take out  
license.

191. Where the annual gross receipts or sales of any apothecaries, confectioners, eating-houses, tobacconists or retail dealers shall not exceed the sum of one thousand dollars, such apothecaries, confectioners, eating-houses and retail dealers shall not be required to take out or pay for license, anything in this act to the contrary notwithstanding; the amount or estimated amount of such annual sales to be ascertained or estimated in such manner as the commissioner of internal revenue shall prescribe, and so of all other annual sales or receipts where the rate of the license is graduated by the amount of sales or receipts. (c)

Ibid. § 66.

Licenses not to  
be required for  
sale of certain  
articles.

192. Nothing contained in the preceding sections of this act laying duties on licenses, shall be construed to require a license for the sale of goods, wares and merchandise made or produced and sold by the manufacturer or producer (d) at the manufactory or place where the same is made or produced; to vintners who sell, at the place where the same is made, wine of their own growth; nor to apothecaries, as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines for sick, lame or diseased persons; nor shall the provisions of paragraph number 28 extend to physicians who keep on hand medicines solely for the purpose of making up their own prescriptions for their own patients.

Ibid. § 67.

Licenses not to  
interfere with  
state laws.

193. No license hereinbefore provided for, if granted, shall be construed to authorize the commencement or continuation of any trade, business, occupation or employment therein mentioned, within any state or territory of the United States in which it is or shall be specially prohibited by the laws thereof, or in violation of the laws of any state or territory: *Provided*, Nothing in this act shall be held or construed so as to prevent the several states within the limits thereof from placing a duty, tax or license for state purposes on any business matter or thing on which a duty, tax or license is required to be paid by this act. (e)

3 March 1863 § 15.  
12 Stat. 724.From what per-  
iod licenses to  
run.

194. The several assessors shall, on the first Monday of May next, and on the first Monday of May in each succeeding year, direct and cause the several assistant assessors to proceed through every part of their respective districts, and inquire after and concerning all persons being within the assessment districts where they respectively reside, and liable to license duty under the provisions of this act or of the act to which this is in addition, and assess such persons as in said acts is required. And all licenses so assessed shall continue in force until the first day of May next succeeding. And all licenses granted after the first day of May in any year shall expire on the first day of May following, and shall be issued upon the payment of a rateable proportion of the whole amount of duty imposed for such license; and each license so granted shall be dated on the first day of the month in which it is issued: *Provided*, That any person, firm or corporation that on the first day of May next shall hold an unexpired license, shall be assessed a rateable proportion for the time between the expiration of the license and the first day of May 1864.

(a) A license to sell liquors does not authorize the sale of any other merchandise. Dec. Com. Oct. 1862. Bout. 228.

(b) See Bout. 270.

(c) See Bout. 188. In sales for cash, the actual amount is to be

returned; in sales on time, legal interest may be deducted. Dec. Com.

(d) See Bout. 317.

(e) See Bout. 270.

195. If any person or persons shall knowingly exercise or carry on any trade or business, for the exercising or carrying on of which trade or business a license is required, without taking out such license as is in that behalf required, he, she or they shall, for every such offence, upon conviction thereof, in lieu of or in addition to other penalties now imposed by law, at the discretion of the court, be subject to imprisonment for a term not exceeding two years.

8 March 1863 § 24.  
Penalty for carrying on trade without license.

196. No auctioneer shall be authorized, by virtue of his license as such auctioneer, to sell any goods or other property in any other district than that in which the license shall have been granted; but lawyers, physicians, surgeons or dentists, having taken out a license as such, shall not be required to take out any additional license in consequence of practising their profession within or beyond the limits of the district where licensed.

Ibid. § 25.  
Auctioneers.  
Lawyers, physicians, &c.

197. Upon the removal of any person or persons from the house or premises at which he, she or they were authorized by license to exercise or carry on any trade or business mentioned in such license, and authorized by the act to which this act is an amendment, it shall and may be lawful for the person or persons authorized to grant licenses to authorize and empower, by indorsement on such license or otherwise as the commissioner of internal revenue shall direct, the person or persons so removing as aforesaid to any other place, to carry on the trade or business specified in such license at the place to which such person or persons may have removed, for or during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty, or any fee thereupon for the residue of such term, and until the expiration thereof: *Provided always*, That a fresh entry of the premises at which such trade or business shall continue to be so exercised or carried on as aforesaid, shall thereupon be made by and in the name or names of the person or persons to whom such authority as aforesaid shall be granted. (a)

Ibid. § 26.  
Removals regulated.

#### V. DUTIES ON MANUFACTURES, ETC.

198. On and after the first day of August 1862, every individual, partnership, firm, association or corporation (and any word or words in this act indicating or referring to person or persons shall be taken to mean and include partnerships, firms, associations or corporations, when not otherwise designated or manifestly incompatible with the intent thereof), shall comply with the following requirements, that is to say:

1 July 1862 § 68.  
12 Stat. 459.

I. Before commencing, or if already commenced, before continuing any such manufacture for which he, she or they may be liable to be assessed, under the provisions of this act, and which shall not be differently provided for elsewhere, within thirty days after the date when this act shall take effect, he, she or they shall furnish to the assistant assessor a statement, subscribed and sworn to, or affirmed, setting forth the place where the manufacture is to be carried on, name of the manufactured article, the proposed market for the same, whether foreign or domestic, and generally the kind and quality manufactured or proposed to be manufactured. (b)

Manufacturers to furnish sworn statement to assistant assessors.

II. He shall, within ten days after the first day of each and every month, after the day on which this act takes effect, as hereinbefore mentioned, or on or before a day prescribed by the commissioner of internal revenue, make return of the products and sales or delivery of such manufacture, in form and detail as may be required, from time to time, by the commissioner of internal revenue. (c)

To make monthly returns of products and sales.

III. All such returns, statements, descriptions, memoranda, oaths and affirmations, shall be in form, scope and detail as may be prescribed, from time to time, by the commissioner of internal revenue.

Forms of returns, &c.

199. Upon the amounts, quantities and values of produce, goods, wares, merchandise and articles manufactured and sold, or delivered, hereinafter enumerated, the manufacturer thereof, (d) whether manufactured for himself or for others, shall pay to the collector of internal revenue within his district, monthly, or on or before a day to be prescribed by the commissioner of internal revenue, the duties on such manufactures: *Provided*, That when thread is manufactured and sold or delivered exclusively for knitted fabrics, or for weaving or spooling, as provided for in the 75th section of this act, the duties shall be assessed on the articles finished and prepared for use or consumption to the party so finishing or preparing the same; (e) and any party so finishing or preparing any cloth or other fabrics of cotton, wool or other materials, whether imported or otherwise, shall be considered the manufacturer thereof for the purposes of

Ibid. § 69.  
Duties to be paid monthly.

Who to be deemed the manufacturer in certain cases.

(a) For the regulations established by the commissioner, under this section, see Bout. 209.

(b) Tanning leather and manufacturing shoes, are distinct branches of manufacture, and the product of each must be taxed, though carried on by the same party. The cutting of soles, however, is a part of shoemaking, and exempt from taxation as a separate manufacture. Dec. Com. Oct. 1862. Bout. 221.

(c) See Bout. 181.

(d) The owner of a patent, who employs others to make the patented article, is regarded as the manufacturer. Dec. Com. Feb. 1863. Bout. 253.

(e) When thread or yarn is delivered to a dealer for sale, it is *prima facie* subject to duty: to exempt it therefrom, the party must satisfy the assessor that it was manufactured and sold exclusively for knitted fabrics, or for weaving or spooling. Dec. Com. Dec. 1862. Bout. 243.



detailed in the section next preceding this, of all manufactured articles liable to be assessed under the provisions of this act, and not otherwise provided for; and such violation or refusal to comply shall further make any party so violating or refusing to comply liable to a fine of five hundred dollars, to be recovered in manner and form as provided in this act.

1 July 1862.  
Penalty for refusal to furnish statements and returns.

202. In case of the manufacture and sale or delivery of any goods, wares, merchandise or articles as hereinafter mentioned, without compliance on the part of the party manufacturing the same with all or any of the requirements and regulations prescribed in this act in relation thereto, the assistant assessor may, upon such information as he may have, assume and estimate the amount and value of such manufactures, and upon such assumed amount assess the duties; and said duties shall be collected in like manner as in case the provisions of this act in relation thereto had been complied with, and to such articles all the foregoing provisions for liens, fines, penalties and forfeitures shall in like manner apply.

Ibid. § 72.  
Assessment of duties on goods sold

203. All goods, wares and merchandise, or articles manufactured or made by any person or persons not for sale, but for his, her or their own use or consumption, (a) and all goods, wares and merchandise, or articles manufactured or made and sold, except spirituous and malt liquors, and manufactured tobacco, where the annual product shall not exceed the sum of six hundred dollars, (b) shall be and are exempt from duty: *Provided*, That this shall not apply to any business or transaction where one party furnishes the materials, or any part thereof, and employs another party to manufacture, make or finish the goods, wares and merchandise or articles, paying or promising to pay therefor, and receiving the goods, wares and merchandise or articles. (c)

Ibid. § 73.  
What goods to be exempt from duty.

204. The value and quantity of the goods, wares and merchandise required to be stated as aforesaid, and subject to an *ad valorem* duty, shall be estimated by the actual sales made by the manufacturer, or by his, her or their agent, (d) or person or persons acting in his, her or their behalf; and where such goods, wares and merchandise have been removed for consumption, or for delivery to others, or placed on shipboard, or are no longer within the custody and control of the manufacturer or manufacturers, or his or their agent, not being in his, her or their factory, store or warehouse, the value shall be estimated by the average of the market value of the like goods, wares and merchandise during the time when the same would have become liable to and charged with duty. (e)

Ibid. § 74.  
How value of dutiable goods to be estimated.

205. From and after the said first day of August 1862, upon the articles, goods, wares and merchandise, hereinafter mentioned, which shall thereafter be produced and sold, or be manufactured or made and sold, or removed for consumption, or for delivery to others than agents of the manufacturer or producer within the United States or territories thereof, (g) there shall be levied, collected and paid the following duties, to be paid by the producer or manufacturer thereof, that is to say:

Ibid. § 75.  
Duties on manufactures, &c.

On candles, of whatever material made, three per centum *ad valorem*;

Candles.  
Mineral coals.

On all mineral coals, except such as are known in the trade as pea coal and dust coal, three and a half cents per ton: *Provided*, That for all contracts of lease of coal lands made before the first day of April 1862, the lessee shall pay the tax; \* \* and all duties or taxes on coal mined and delivered by coal operators at the mines on contracts made prior to July 1st 1862, shall be paid by the purchasers thereof; (h)

On lard oil, mustard-seed oil, linseed oil, and on all animal or vegetable oils not exported nor provided for elsewhere, whether pure or adulterated, two cents per gallon: *Provided*, That red oil or oleic acid, produced in the manufacture of candles, and used as a material in the manufacture of soap, paraffine, whale and fish oil, shall be exempted from this duty.

206. On gas, illuminating, made of coal, wholly or in part, or any other material, Gas.

(e) See Bout. 254.

(b) If the annual product exceed \$500, the tax is to be assessed upon the whole amount produced. Dec. Com.

(c) Under this proviso, the party employed must make out a list, under oath, of the number or quantity of goods manufactured, during each month, the value thereof, and the name and usual place of business of his employer. If the parties both have their place of business in that district, the tax is to be then assessed to the employer; if in different districts, then the assessor receiving said list is to transmit the same to the assessor of the district in which the employer has his place of business. Dec. Com. 1862. Bout. 240, 241.

(d) The word "agent," as here used, is construed to mean either a person who is the exclusive agent of a manufacturer, or any person or firm selling goods on commission, designated by a manufacturer as his agent for the sale of his manufactures. The manufacturer is required in all cases to make known to the assessor or assistant assessor of the district, the name and place of business of the agent so designated. If a manufacturer of agricultural implements authorize an agent to sell such implements at wholesale, at places other than that of manufacture, such agent will not be required to take out license as a dealer or

pedlar; but if the agent sell at retail, he must be licensed. Dec. Com. Dec. 1862. Bout. 238.

(e) When goods are removed and sold at any other place than that of manufacture, the owner is entitled to a deduction for freight, storage, insurance and commissions; and when sales are made by the manufacturer, he is to be allowed for the usual expenses of sale. Dec. Com. Jan. 1863. Bout. 250.

(g) When a manufacturer has goods on hand at the place of manufacture, but has not taken out a license, nor kept his factory in operation, since this act went into effect, such goods are subject to duty whenever sold or removed from the place of manufacture. Dec. Com. Oct. 1862. Bout. 220. See *infra* 240.

A tanner who receives hides from other parties, for the purpose of tanning the same, may remove the tanned leather, without inspection, to the owners, on filing in the office the certificate of the collector and assessor that such removal will not prejudice the government. Dec. Com. Oct. 1862. Bout. 220. Goods sent to an agent, are regarded as still in the factory; the tax is due thereon, when removed from the hands of the agent. Dec. Com. Oct. 1862. Bout. 221.

(A) So amended by act 3 March 1863. 12 Stat. 716.

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when the product shall be not above five hundred thousand cubic feet per month, five cents per one thousand cubic feet; when the product shall be above five hundred thousand, and not exceeding five millions of cubic feet per month, ten cents per one thousand cubic feet; when the product shall be above five millions, fifteen cents per one thousand cubic feet; and the general average of the monthly product for the year preceding the return required by this act shall regulate the rate of duty herein imposed; and where any gas company shall not have been in operation for the year next preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the product required to be returned by this act shall be understood to be the product charged in the bills actually rendered by any gas company during the month preceding the return, and all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold: *Provided further*, That all gas furnished for lighting street lamps, and not measured, and all gas made for and used by any hotel, inn, tavern and private dwelling-house, shall be subject to duty, and may be estimated; and if the returns in any case shall be understated or underestimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper: *And provided further*, That coal tar produced in the manufacture of illuminating gas, and the products of the redistillation of coal tar thus produced shall be exempt from duty: *And provided further*, That gas companies so located as to compete with each other shall pay the rate imposed by this act upon the company having the largest production.

Coal tar.

Coal oil.

207. On coal illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum or rock oil, and all other bituminous substances, used for like purposes, ten cents per gallon; (a) *Provided*, That such oil refined and produced by the distillation of coal exclusively shall be subject to pay a duty of eight cents per gallon, anything in this act to the contrary notwithstanding: *And provided further*, That distillers of coal oil shall be subject to all the provisions of this act, hereinbefore set forth and specified, applicable to distillers of spirituous liquors, with regard to licenses, bonds, returns and all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of duties, so far as the same may in the judgment of the commissioner of internal revenue and under regulations prescribed by him be necessary for that purpose.

Coffee.

208. On ground coffee, and all preparations of which coffee forms a part, or which is prepared for sale as a substitute for coffee, three mills per pound;

Spices.

On ground pepper, ground mustard, ground pimento, ground cloves, ground cassia and ground ginger, and all imitations of the same, one cent per pound;

Sugar.

Sugar refiners shall pay one and one-half of one per cent. on the gross amount of the sales of all the products of their manufactories: *Provided*, That every person shall be regarded as a sugar refiner under this act whose business it is to advance the quality and value of sugar by melting and recrystallization, or by liquoring, claying or other washing process, or by any other chemical or mechanical means; or who shall advance the quality or value of molasses and concentrated molasses, melado or concentrated melado, by boiling or other process; (b)

On all brown, Muscovado or clarified sugars produced directly from the sugar cane, and not from sorghum or imphee, other than those produced by the refiner, one cent per pound;

Chocolate.

On chocolate, and cocoa prepared, one cent per pound;

Saleratus, &amp;c.

On saleratus and bicarbonate of soda, five mills per pound;

Starch.

On starch, made of potatoes, one mill per pound; made of corn or wheat, one and a half mills per pound; made of rice or any other material, four mills per pound.

Cigars.

209. On cigars, valued at not over five dollars per thousand, one dollar and fifty cents per thousand; (c)

On cigars, valued at over five and not over ten dollars per thousand, two dollars per thousand;

On cigars, valued at over ten and not over twenty dollars per thousand, two dollars and fifty cents per thousand;

On cigars, valued at over twenty dollars per thousand, three dollars and fifty cents per thousand.

Gunpowder, &amp;c.

210. On gunpowder, and all explosive substances used for mining, blasting, artillery or sporting purposes, when valued at eighteen cents per pound or less, five mills per pound; when valued at above eighteen cents per pound, and not exceeding thirty cents per pound, one cent per pound; and when valued at above thirty cents per pound, six cents per pound.

(a) Oil manufactured, without distillation, from paraffine and benzole, is subject to a duty of three per cent. ad valorem. Dec. Com. April 1863. Bout. 264.

(b) Act 3 March 1863. 12 Stat. 716. See *infra* 226.

(c) The cost of boxes may be deducted. Dec. Com. Jan. 1863. Bout. 247.

211. On white lead, twenty-five cents per one hundred pounds;

On oxide of zinc, twenty-five cents per one hundred pounds;

On sulphate of barytes, ten cents per one hundred pounds: *Provided*, That white lead, oxide of zinc and sulphate of barytes, and paints and painters' colors, (a) or any one of them, shall not be subject to any additional duty in consequence of being mixed or ground with linseed oil, when the duties upon all the materials so mixed or ground shall have been previously actually paid;

On all paints and painters' colors, dry or ground in oil, or in paste with water, not otherwise provided for, five per centum ad valorem.

212. On clock movements made to run one day, five cents each; made to run more than one day, ten cents each; (b)

On pins, solid head or other, five per centum ad valorem;

On screws, commonly called wood screws, one and a half cent per pound.

213. On railroad iron, and all other iron advanced beyond slabs, blooms or loops, and not advanced beyond bars or rods, and band, hoop and sheet iron, not thinner than number eighteen wire-gauge, and plate iron not less than one-eighth of an inch in thickness, one dollar and fifty cents per ton; (c) on railroad iron, re-rolled, seventy-five cents per ton; on band, hoop and sheet iron, thinner than number eighteen wire-gauge, plate iron less than one-eighth of an inch in thickness, and cut nails and spikes, two dollars per ton: *Provided*, That bars, rods, bands, hoops, sheets, plates, nails and spikes, manufactured from iron upon which the duty of one dollar and fifty cents has been levied and paid, shall be subject only to a duty of fifty cents per ton in addition thereto, anything in this act to the contrary notwithstanding; On stoves and hollow ware, one dollar and fifty cents per ton of two thousand pounds; cast iron used for bridges, buildings or other permanent structures, one dollar per ton: (d) *Provided*, That bar iron used for like purposes shall be charged no additional duty beyond the specific duty imposed by this act; On steel in ingots, bars, sheets or wire not less than one-fourth of an inch in thickness, valued at seven cents per pound or less, four dollars per ton; valued at above seven cents per pound, and not above eleven cents per pound, eight dollars per ton; valued above eleven cents per pound, ten dollars per ton.

214. On paper of all descriptions, including pasteboard and binders' boards, three per centum ad valorem.

215. On soap, castile, palm-oil, erasive and soap of all other descriptions, white or colored, except soft soap and soap otherwise provided for, valued not above three and a half cents per pound, one mill per pound; valued at above three and a half cents per pound, five mills per pound;

On soap, fancy, scented, honey, cream, transparent, and all descriptions of toilet and shaving soap, two cents per pound.

216. On salt, four cents per one hundred pounds;

On pickles and preserved fruits, and on all preserved meats, fish and shell-fish in cans or air-tight packages, five per centum ad valorem.

217. On glue and gelatine of all descriptions in the solid state, five mills per pound;

On glue and cement, made wholly or in part of glue, to be sold in the liquid state, twenty-five cents per gallon.

218. On patent or enamelled leather, five mills per square foot;

On patent japanned split, used for dasher leather, four mills per square foot;

On patent or enamelled skirting leather, one and a half cent per square foot;

On all sole and rough or harness leather, made from hides imported east of the Cape of Good Hope, and all damaged leather, five mills per pound;

On all other sole or rough leather, hemlock tanned, and harness leather, seven mills per pound;

On all sole or rough leather, tanned in whole or in part with oak, one cent per pound;

On all finished or curried upper leather, made from leather tanned in the interest of the parties finishing or currying such leather, not previously taxed in the rough, (e) except calf skins, one cent per pound;

On bend and butt leather, one cent per pound;

On offal leather, five mills per pound;

On oil-dressed leather, and deer skins dressed or smoked, two cents per pound;

On tanned calf skins, six cents each;

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White lead, &c.

Clock movements.

Pins.

Wood screws.

Iron.

Steel.

Paper.

Soap.

Salt.

Pickles.

Glue, &c.

Leather.

Skins.

(a) So amended by act 3 March 1863. 12 Stat. 716.

(b) See *infra* 238.

(c) Railroad car wheels are taxable at \$1.50 per ton. Dec. Com. May 1863. Bout. 272. And so are iron forgings of whatever size or shape, in the rough and unfinished state. Dec. Com. Aug. 1863. No. 120.

(d) The ton, in this case, is reckoned at 2240 pounds. This clause does not apply to materials used as ornaments, or as mere adjuncts or affixes, but only to such castings as are wrought into

the structure, and are so exclusively adapted therefor, as to have no especial value for any other use. Dec. Com. May 1863. Bout. 273.

(e) Finished or curried upper leather, made from rough leather, is not subject to an additional tax by reason of such finishing. Dec. Com. Oct. 1862. Bout. 221. All leather, whether tan aged or sound, finished or curried, in the interest of the parties who tanned the same, is subject to a duty of one cent per pound on the curried leather: provided, the specific tax shall not have been previously paid on the tanned leather. Bout. 265.

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	On morocco, goat, kid or sheep skins, curried, manufactured or finished, four per centum ad valorem: <i>Provided</i> , That the price at which such skins are usually sold shall determine their value;
	On horse and hog skins tanned and dressed, four per centum ad valorem;
	On American patent calf skins, five per centum ad valorem;
Hose.	On conducting hose of all kinds for conducting water or other fluids, a duty of three per centum ad valorem.
Wine.	219. On wine, made of grapes, five cents per gallon.
Varnish.	220. On varnish, made wholly or in part of gum copal or other gums or substances, five per centum ad valorem.
Furs.	221. On furs of all descriptions, when made up or manufactured, three per centum ad valorem.
Cotton and woolen goods, &c.	222. On cloth and all textile or knitted or felted fabrics of cotton, wool or other materials, before the same has been dyed, printed, bleached or prepared in any other manner, a duty of three per centum ad valorem: <i>Provided</i> , That thread or yard manufactured and sold or delivered exclusively for knitted fabrics, or for weaving, when the spinning and weaving for the manufacture of cloth of any kind is carried on separately, shall not be regarded as manufactures within the meaning of this act; but all fabrics of cotton, wool or other material, whether woven, knit or felted, shall be regarded as manufactures, and be subject to the duty, as above, of three per centum ad valorem.
Jewelry.	223. On all diamonds, emeralds and all other jewelry, a tax of three per centum ad valorem.(a)
Cotton.	224. On and after the first day of October 1862, there shall be levied, collected and paid a tax of one-half of one cent per pound on all cotton held or owned by any person or persons, corporation or association of persons; and such tax shall be a lien thereon in the possession of any person whomsoever.(b) And further, if any person or persons, corporations or association of persons, shall remove, carry or transport the same from the place of its production before said tax shall have been paid, such person or persons, corporation or association of persons, shall forfeit and pay to the United States double the amount of such tax, to be recovered in any court having jurisdiction thereof: <i>Provided</i> , however, That the commissioner of internal revenue is hereby authorized to make such rules and regulations as he may deem proper for the payment of said tax at places different from that of the production of said cotton:(c) And provided further, That all cotton owned and held by any manufacturer of cotton fabrics on the first day [of] October 1862, and prior thereto, shall be exempt from the tax hereby imposed.
Other manufactures.	225. On all manufactures of cotton, wool, silk, worsted, flax, hemp, jute, India-rubber, gutta-percha, wood, willow, glass, pottery-ware, leather, paper, iron,(d) steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, or of other materials, not in this act otherwise provided for,(e) a duty of three per centum ad valorem: <i>Provided</i> , That on all cloths dyed, printed, bleached, manufactured into other fabrics, or otherwise prepared, on which a duty or tax shall have been paid before the same were so dyed, printed, bleached, manufactured or prepared, the said duty or tax of three per centum shall be assessed only upon the increased value thereof:(g) And provided further, That on all oil-dressed leather,(h) and deer skins dressed or smoked, manufactured into gloves, mittens or other articles on which a duty or tax shall have been paid before the same were so manufactured, the said duty or tax of three per centum shall be assessed only upon the increased valuation thereof: And provided further, That in estimating the duties upon articles manufactured when removed and sold at any other place than the place of manufacture, there shall be deducted from the gross amount of sales the freight, commission and expenses of sale actually paid, and the duty shall be assessed and paid upon the net amount after the deductions as aforesaid:(i) And provided further, That printed books, magazines, pamphlets, newspapers, reviews and all other similar printed publications; boards, shingles and all other lumber and timber; staves, hoops, headings(k) and timber only partially wrought and unfinished for chairs, tubs, pails, snathes, lasts, shovel and fork handles; umbrella stretchers, pig
Duties to be estimated on net value.	
Certain articles not to be liable to duty as manufactures.	

(a) Diamonds, emeralds and other precious stones are taxable upon the full value of the stones and setting. Dec. Com. June 1863. Bout. 280.

(b) See Bout. 301.

(c) See Bout. 193.

(d) Castings of iron not exceeding 10 pounds in weight each, and which are so well known and so generally used, as to have a commercial value, are subject to a duty of three per cent. Wrought iron shafting, steam boilers, cylinders, pistons, valves, governors and all other articles of wrought iron, which are complete machines in themselves, or which form parts of machines so well known and so generally used, as to have a commercial value, and a name known to trade, are liable as manufactures to a duty of three per cent. Dec. Com. May 1863. Bout. 273.

(e) Shooks is a manufacture within the meaning of this clause. Hay v. Harding, 20 Leg. Int. 118.

(g) Clothing as a manufacture is subject in that form to an

additional duty of three per cent. ad valorem. Bennett v. Harding, 10 Pittsburgh Leg. J. 226. Dec. Com. Dec. 1862. Bout. 235. See Ibid. 221-2. The making up of garments for a manufacturer of clothing, is not taxable as a separate manufacture. Dec. Com. Oct. 1862. Ibid. 222. Nor is a designer or engraver, unless he furnish the seal, stamp or die. Ibid. 242. Nor is the putting together of the different parts of a piece of furniture. Ibid. 244. And see Ibid. 261.

(h) See Bout. 334.

(i) See Bout. 250.

(k) This only applies to these articles in the rough: shooks are subject to a duty of three per cent. ad valorem as a non enumerated manufacture. Whenever lumber is cut, planed, matched, tongued and grooved or bevelled, and thus, or otherwise prepared for dimension boxes, or other packages, whether used on the premises or sold in the market, it is considered a manufacture and taxed as such. Dec. Com. Jan. 1863. Bout. 246.

iron and iron not advanced beyond slabs, blooms or loops; maps and charts; charcoal; alcohol made or manufactured of spirits or materials upon which the duties imposed by this act shall have been paid; plaster or gypsum; malt; burning fluid; printers' ink; flax prepared for textile or felting purposes, until actually woven or fitted into fabrics for consumption; all flour and meal made from grain; bread and breadstuffs; pearl barley and split peas; butter; cheese; concentrated milk; bullion, in the manufacture of silverware; brick; lime; Roman cement; draining tiles; marble; slate; building stone; (a) copper, in ingots or pigs; and lead, in pigs or bars, shall not be regarded as manufactures within the meaning of this act: *Provided*, That whenever, by the provisions of this act, a duty is imposed upon any article removed for consumption or sale, it shall apply only to such articles as are manufactured on or after the first day of August 1862, and to such as are manufactured and not removed from the place of manufacture prior to that date. (b)

226. In addition to the duties imposed by the act entitled "An act to provide internal revenue to support the government, and to pay interest on the public debt," approved July 1st 1862, on all brown, Muscovado or clarified sugars produced directly from the sugar cane, there shall be levied, collected and paid, under the provisions of said act, upon all such sugars produced in the United States, a duty of one per cent. per pound; and such additional duty and the duty specified in the act aforesaid shall be levied, collected and paid [on] all such sugars not manufactured for consumption in the family of the producer, in the hands of the producer or manufacturer thereof or of his agent or factor, on the day of the approval of this act by the president: *Provided*, That within states or parts of states declared to be in insurrection the said duties may be collected in such manner and by such officers as the president may direct until the insurrection so declared shall cease or have been suppressed.

1 July 1862.

16 July 1862 § 1.  
12 Stat. 568.Increased duty  
on certain sugars

The provisions of this act shall not apply to sugar manufactured from sorghum. (c)

227. In lieu of any other duties or rates of duty, on the articles hereinafter enumerated in this section, or provisions existing in relation thereto, the following:

Ibid. § 2.

3 March 1863 § 1.  
12 Stat. 710.

On marine engines, (d) three per centum ad valorem.

228. On rivets, exceeding one-fourth of one inch in diameter, nuts, wrought railroad chairs, bolts and horseshoes, two dollars per ton: *Provided*, That where a duty upon the iron from which said articles shall have been made has been actually paid, an additional duty only shall be paid of fifty cents per ton;

Marine engines.  
Rivets, nuts,  
bolts, &c.

On rolled brass, copper and yellow sheathing metal, in rods or sheets, one per centum ad valorem.

Rolled brass, cop-  
per, &c.

229. On sails, tents, shades, awnings and bags, made of cotton, flax or hemp, or part of either, or other materials, three per centum ad valorem: *Provided*, That the sewing of sails, tents, shades, awnings, carpets and bags, the materials whereof belonged to the employer, shall be exempt from duty where the cloth or material from which they are made was imported, or has been subject to and paid a duty. (e)

Sails, tents, &amp;c.

230. On tobacco, cavendish, plug, twist, fine cut and manufactured of all descriptions (not including snuff, cigars and smoking tobacco, prepared with all the stems in or made exclusively of stems), fifteen cents per pound; (g)

Tobacco, &amp;c.

On smoking tobacco prepared with all the stems in, and on smoking tobacco made exclusively of stems, five cents per pound;

On snuff manufactured of tobacco or stems, or of any substitute for tobacco, ground, dry or damp, of all descriptions, twenty cents per pound. (h)

Snuff.

231. On mineral or medicinal waters, or waters from springs impregnated with minerals, one cent for each bottle containing not more than one quart; when containing more than one quart, two cents for each bottle. (i)

Mineral and  
other waters.

232. Tailors, boot and shoemakers, milliners and dressmakers, making clothing or articles of dress for men's, women's or children's wear, to order as custom work, (k) and not for sale generally, shall, to the amount of one thousand dollars, (l) be exempt from duty, and for any excess beyond the amount of one thousand dollars shall pay a duty of one per centum ad valorem. (m)

Tailors, shoema-  
kers, &c.

(a) Stone designed for buildings, whether rough, hewn or carved, is not subject to taxation; but articles manufactured from stone, &c., such as fireplaces and mantel-pieces, though designed for particular buildings, are liable to a tax of three per cent. ad valorem, and so are other manufactures of stone, &c., which are recognised as articles of traffic. Dec. Com. Dec. 1862. Bout. 244. Gravestones, monuments, &c., whether made to order or not, are taxable as manufactures; the cost of the inscription, &c., is to be deducted from the value. Dec. Com. June 1863. Bout. 280.

(b) See *supra* 110, and Bout. 242, 255, 321, 436.

(c) See *supra* 208, and Bout. 388.

(d) All steam-engines are subject to a duty of three per cent. Dec. Com. May 1863. Bout. 272.

(e) The intention of this proviso is, not to exempt the articles from taxation, but to relieve the sewer from liability when the materials are imported or have paid a duty. The owner of the

materials must pay the tax. Dec. Com. Sept. 1863. No. 124.

(g) The weight of the wrapping material is to be deducted, and its cost from the gross amount of sales. Dec. Com. Jan. 1863. Bout. 246.

(h) See Bout. 253.

(i) See Bout. 271, 329.

(k) This applies only to such articles as are made upon the personal order of a customer at the manufacturer's place of business. Dec. Com. March 1863. Bout. 255.

(l) If one party furnish the materials, and another make them up, the value of the materials will be included in the \$1000 exempt from taxation. Dec. Com. Bout. 257.

(m) If a tailor make \$600 worth of clothing to order, and an equal amount for sale generally, the latter is liable to a duty of three per cent. ad valorem, under the 73d section of the act 1 July 1862. Dec. Com. Bout. 257.



- 8 March 1863. 233. On umbrellas and parasols, made of cotton, silk or other material, three per centum ad valorem.
- Umbrellas and parasols. 234. On all ships, barques, brigs, schooners, sloops, sail-boats, steamboats (not including the engine), canal-boats and all other vessels or water-craft hereafter built, made or constructed, two per cent.(a)
- Ships, &c. 235. On sugar-candy and all confectionery made wholly or in part of sugar, valued at fourteen cents per pound or less, two cents per pound; when valued at exceeding fourteen cents and not exceeding forty cents per pound, three cents per pound; when valued at exceeding forty cents per pound, or when sold otherwise than by the pound,(b) five per centum ad valorem.
- Confectionery. 236. On all gold leaf fifteen cents per pack, containing not more than twenty books of twenty-five leaves each.
- Gold leaf. 237. On castings of iron(c) exceeding ten pounds in weight for each casting, not otherwise provided for in this act or in the act to which this act is an amendment, one dollar and fifty cents per ton:(d) *Provided*, That there shall be deducted from duties assessed upon railroad cars any duties which may have been assessed and paid upon car-wheels under the provisions of this act.
- Iron castings. 238. On clocks and time-pieces, and on clock movements when sold without being cased, three per centum ad valorem.
- Clocks and clock movements. 239. Spokes, hubs, felloes, grindstones, coke, silver bullion, rolled or prepared for platers' use exclusively; materials for the manufacture of hoop-skirts exclusively, and unfitted for other use (such as steel wire, rolled, tempered or covered, cut tapes, and small wares for joining hoops together); spindles and castings of all descriptions,(e) where made exclusively for instruments, articles or machinery upon which duties are assessed and paid, shall be exempt from duty. And all goods, wares and merchandise, and articles made or manufactured from materials which have been subject to and upon which internal duties have been actually paid, or materials imported upon which duties have been paid, or upon which no duties are imposed by law, where the increased value of such goods, wares and merchandise, and articles so made and manufactured, shall not exceed the amount of five per centum ad valorem, shall be and hereby are exempt from duty.(g)
- Ibid.* § 29. 240. On all cloths of silk, cotton or other material, dyed, printed, bleached, manufactured or prepared into other fabrics, which were removed from the place of manufacture prior to the first of September 1862, or which have been or shall be imported, the duty or tax of three per centum shall be assessed only upon the increased value thereof:(h) *Provided further*, That whenever the duty has been assessed, or assessed and collected at the full value thereof upon cloths of silk, cotton or other material manufactured and removed from the place of manufacture prior to the first of September 1862, or which were imported prior to the passage of this act, and which have been dyed, printed, bleached, manufactured or otherwise prepared into other fabrics, since the said first of September 1862, the commissioner of internal revenue, subject to the regulation of the secretary of the treasury, shall be and he hereby is authorized and directed to remit, refund and pay back such proportion of said duties as were assessed upon the value of such cloths before the same were so dyed, printed, bleached, manufactured or otherwise prepared.(i)
- Certain articles to be free from duty. *Ibid.* § 30. 241. Manufacturers of lard oil, lubricating oil and linseed oil shall be subject to the provisions of the act to which this is an amendment, relating to distillers of spirituous liquors, and designed for the purpose of ascertaining the quantity produced, so far as the same may, in the judgment of the commissioner of internal revenue, and under regulations to be prescribed by him, be deemed necessary.
- Articles manufactured from dutiable materials. *Ibid.* § 32. 242. The provisions of the act to which this act is an amendment, in relation to returns by manufacturers, and the payment and collection of duties upon manufactured articles, enumerated in section 75 of said act, shall be and hereby are made applicable to the producers of articles which are also mentioned in said section, and on which taxes are levied.
- Ibid.* § 33. 243. The provisions of the act to which this act is an amendment, in relation to returns by manufacturers, and the payment and collection of duties upon manufactured articles, enumerated in section 75 of said act, shall be and hereby are made applicable to the producers of articles which are also mentioned in said section, and on which taxes are levied.
- Manufacturers of lard oil, &c. *Ibid.* § 34. 244. The provisions of the act to which this act is an amendment, in relation to returns by manufacturers, and the payment and collection of duties upon manufactured articles, enumerated in section 75 of said act, shall be and hereby are made applicable to the producers of articles which are also mentioned in said section, and on which taxes are levied.
- Returns by producers. (a) The tax is to be levied upon the hull of the vessel in its finished state, without deduction for duties paid on the materials. Vessels of which the keels were actually laid at the passage of the act are exempt. On vessels constructed for before the passage of the act, the duty is to be paid by the purchaser, not by the builder. Dec. Com. Sept. 1863. No. 122.
- (b) The phrase, "when sold otherwise than by the pound," refers to articles of ornament, whose value depends on the taste and skill of the manufacturer. Dec. Com. April 1863. Bout. 269. See *Ibid.* 323.
- (c) Cannon are regarded as manufactures, not as castings, and are subject to a duty of three per cent. Dec. Com. May 1863. Bout. 272.
- (d) Projectiles, such as shot and shell; lamp-posts, water and gas pipes, fences, fire-grates, ranges, grate-bars, shafting, and all other castings of iron, exceeding ten pounds in weight each, not otherwise provided for, are taxable at the rate of \$1.50 per ton. Dec. Com. May 1863. Bout. 272. See *Ibid.* 333.
- (e) Castings made exclusively for instruments, articles or machinery upon which duties are assessed and paid, are exempt under this section. Dec. Com. May 1863. Bout. 273.
- (f) The general principle of the excise law is, that each particular manufacture is taxed for its value, though materials used in its production are, in themselves, manufactures, on which a duty has been previously paid. Dec. Com. Oct. 1862. Bout. 220.
- (g) See Bout. 257, for the regulations established by the commissioner.
- (h) See Bout. 267.

243. There shall be designated by the collector in every district where the same may be necessary, one or more inspectors of manufactured tobacco, who shall take an oath faithfully to perform their duties, in such form as the commissioner of internal revenue shall prescribe, and who shall be entitled to receive such fees as may be fixed and prescribed by said commissioner. And all manufactured tobacco shall, before the same is used or removed for consumption or sale, be inspected and weighed by an inspector, designated as aforesaid, who shall mark upon the box or other package containing such tobacco, in a manner to be prescribed by said commissioner, the quality and weight of the contents of such package, with the date of inspection, and the name of the inspector. The fees of such inspector shall in all cases be paid by the owner of the tobacco so inspected and weighed. The penalties for the fraudulent marking of any package of tobacco, and for any fraudulent attempt to evade the duties on tobacco so inspected, by changing in any manner the package or the marks thereon, shall be the same as are provided in relation to distilled spirits by existing laws. That manufactured tobacco may be removed from the place of manufacture for the purpose of being exported, after the quantity and quality to be so removed shall have been ascertained by inspection, according to the provisions of this act, upon and with the written permission of the collector or deputy collector of the district, without payment of the duties thereon previous to such removal, the owner thereof having given bond to the United States, with sufficient sureties, in the manner and form and under regulations to be prescribed by the commissioner of internal revenue, and in at least double the amount of said duties to export the said manufactured tobacco, or pay the duties thereon within such time as may be stated in the bond: (a) and all the provisions relative to the exportation of distilled spirits in bond, contained in the act to which this is an amendment, as far as the same may be applicable, shall be applied to the exportation of tobacco in bond: *Provided, however,* That nothing herein contained shall be considered to apply to snuff, fine cut tobacco or cigars.

8 March 1863 § 34.

Inspectors of tobacco.

Inspection.

Fees.

Penalty for fraudulent marking, &amp;c.

Removal for exportation.

## VI. AUCTION DUTIES.

244. On and after the first day of August 1862, there shall be levied, collected and paid on all sales of real estate, goods, wares, merchandise, articles or things, at auction, including all sales of stocks, bonds and other securities, a duty of one-tenth of one per centum on the gross amount of such sales, and every auctioneer making such sales as aforesaid, shall at the end of each and every month, or within ten days thereafter, make a list or return to the assistant assessor of the district of the gross amount of such sales made as aforesaid, with the amount of duty which has accrued, or should accrue thereon, which list shall have annexed thereto a declaration under oath or affirmation, in form and manner as may be prescribed by the commissioner of internal revenue, that the same is true and correct, and shall at the same time, as aforesaid, pay to the collector or deputy collector the amount of duty or tax thereupon as aforesaid, and in default thereof shall be subject to and pay a penalty of five hundred dollars. In all cases of delinquency in making said list or payment the assessment and collection shall be made in the manner prescribed in the general provisions of this act: *Provided,* That no duty shall be levied under the provisions of this section upon any sales by judicial or executive officers making auction sales by virtue of a judgment or decree of any court, nor to public sales made by executors or administrators.

1 July 1862 § 76.  
12 Stat. 460.

Duties on auction sales.

Auctioneers to make monthly returns.

Not to apply to judicial sales, &amp;c.

## VII. TAX ON CARRIAGES, YACHTS, BILLIARD-TABLES AND PLATE.

245. From and after the first day of August (b) 1862, there shall be levied, collected and paid, by any person or persons owning, possessing or keeping any carriage, yacht, plate or (c) billiard-table, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in schedule marked A.

1 July 1862 § 77.  
12 Stat. 467.

## Schedule A.

## Duty.

	Dolls.	Cts.	Tax on carriages.
Carriage, gig, chaise, phaeton, wagon, buggy-wagon, carryall, rockaway or other like carriage, the body of which rests upon springs of any description, kept for use, for hire or for passengers, (c) and which shall not be exclusively employed in husbandry or for the transportation of merchandise, and valued at seventy-five dollars or over, including the harness used therewith, when drawn by one horse, one dollar . . . . .	1	00	
Carriages of like description drawn by two horses, and any coach, hackney-coach, omnibus or four-wheel carriage, the body of which rests upon springs of any description, which may be kept for use, for hire or for passengers, and which shall not be exclusively employed in husbandry or for the transportation of merchandise, valued at seventy-five dollars, and not exceeding two			

(a) See Bont. 268, as to the proceedings for cancelling such bonds.

(b) See resolution 17 July 1862. 12 Stat. 627.  
(c) Act 3 March 1863. 12 Stat. 717.

		Duty. Dolla. cts.
1 July 1862.	hundred dollars, including the harness used therewith, drawn by two horses or more, two dollars . . . . .	2 00
	Carriages of like description, when valued above two hundred dollars, and not exceeding six hundred dollars, five dollars . . . . .	5 00
	Carriages of like description, valued above six hundred dollars, ten dollars . . . . .	10 00
Yachts.	Pleasure or racing vessels, known as yachts, whether by sail or steam, under the value of six hundred dollars, five dollars . . . . .	5 00
	Yachts valued above six hundred dollars, and not exceeding one thousand dollars, ten dollars(a) . . . . .	10 00
	And for each additional one thousand dollars in value of said yachts, ten dollars . . . . .	10 00
Billiard-tables.	Billiard-tables, kept for use, ten dollars . . . . .	10 00
Plate.	Plate of gold, kept for use, per ounce troy, fifty cents . . . . .	50
	Plate of silver, kept for use,(b) per ounce troy, three cents . . . . .	3
	<i>Provided</i> , That silver spoons or plate of silver, to an amount not exceeding forty ounces as aforesaid, belonging to any one person, shall be exempt from duty.(c)	

## VIII. DUTIES ON SLAUGHTERED CATTLE, ETC.

1 July 1862 § 78. 246. On and after the first day of August 1862, there shall be levied, collected and paid by any person or persons, firms, companies or agents or employees thereof, the following duties or taxes, that is to say: (d)

Duties on slaughtered cattle. On all horned cattle exceeding eighteen months old, slaughtered for sale, thirty cents per head;

On all calves and cattle under eighteen months old, slaughtered for sale, five cents per head;

Hogs. On all hogs exceeding six months old, slaughtered for sale, when the number thus slaughtered exceeds twenty in any one year, ten cents per head;

Sheep. On all sheep, slaughtered for sale, five cents per head: *Provided*, That all cattle, hogs and sheep slaughtered by any person for his or her own consumption, shall be exempt from duty.

*Ibid.* § 79. 247. On and after the date on which this act shall take effect, any person or persons, firms or companies, or agents or employees thereof, (e) whose business or occupation it is to slaughter for sale any cattle, calves, sheep or hogs, shall be required to make and render a list at the end of each and every month to the assistant assessor of the district where the business is transacted, stating the number of cattle, calves, if any, the number of hogs, if any, and the number of sheep, if any, slaughtered as aforesaid, with the several rates of duty as fixed therein in this act, together with the whole amount thereof; which list shall have annexed thereto a declaration of said person or persons, agents or employees thereof as aforesaid, under oath or affirmations, in such manner and form as may be prescribed by the commissioner of internal revenue, that the same is true and correct; and shall, at the time of rendering said list, pay the full amount of duties which have accrued or should accrue as aforesaid to the collector or deputy collector of the district as aforesaid; and in case of default in making the return or payment of the duties as aforesaid, the assessment and collection shall be made as in the general provisions of this act required; and in case of fraud or evasion, the party offending shall forfeit and pay a penalty of ten dollars per head for any cattle, calves, hogs or sheep so slaughtered upon which the duty is fraudulently withheld, evaded or attempted to be evaded: *Provided*, That the commissioner of internal revenue shall prescribe such further rules and regulations as he may deem necessary for ascertaining the correct number of cattle, calves, hogs and sheep liable to be taxed under the provisions of this act.

## IX. TAX ON RAILROADS, STEAMBOATS, FERRY-BOATS AND EXPRESS COMPANIES.

1 July 1862 § 80. 248. On and after the first day of August 1862, any person or persons, firms, companies or corporations, owning or possessing, or having the care or management of any railroad or railroads upon which steam is used as a propelling power, or of any steamboat or other vessel propelled by steam-power, shall be subject to and pay a duty of three per centum on the gross amount of all the receipts of such railroad or railroads or steam-vessel for the transportation of passengers over and upon the same; and any person or persons, firms, companies or corporations, owning or possessing, or having the

(a) See Bout. 229.  
(b) This includes all silverware kept for use, whether for ornament or actual service: but excludes souvenirs, and plate kept for sale. Dec. Com. Oct. 1862. Bout. 229.

(c) The act 3 March 1863 exempts from duty, plate belonging to religious societies. 12 Stat. 717.

(d) The act 3 March 1863, § 1, provides that on horned cattle, slaughtered, the duty shall be twenty cents per head, on sheep and lambs, slaughtered, the duty shall be three cents per head, and on hogs, slaughtered, exceeding one hundred pounds in

weight, without regard to age, six cents each, and no duty shall be charged on hogs slaughtered of less weight; and the cattle, hogs and sheep slaughtered by any person for his or her own consumption, not exceeding six of each, shall be exempt from duty. 12 Stat. 718.

(e) If other parties are permitted to slaughter animals, at the place of business of one whose business it is to slaughter animals, they will be deemed the agents or employees of the owner thereof, who alone is responsible for the duties. Dec. Com. Feb. 1863. Bout. 252.

care or management of any railroad or railroads using any other power than steam thereon, [or owning, possessing or having the care or management of any ferry-boat, or vessel used as a ferry-boat, propelled by steam or horse-power,] shall be subject to and pay a duty of one and a half per centum upon the gross receipts of such railroad [or ferry-boat, respectively,] for the transportation of passengers (a) over and upon said railroads, steamboats [and ferry-boats,] respectively; and any person or persons, firms, companies or corporations, (b) owning, possessing or having the care or management of any bridge authorized by law to receive toll for the transit of passengers, beasts, carriages, teams and freight of any description over such bridge, shall be subject to and pay a duty of three per centum on the gross amount of all their receipts of every description. And the owner, possessor or person or persons having the care and management of any such railroad, steamboat, ferry-boat or other vessel or bridge as aforesaid, shall, within five days after the end of each and every month, commencing as hereinbefore mentioned, make a list or return to the assistant assessor of the district within which such owner, possessor, company or corporation may have his or its place of business, or where any such railroad, steamboat, ferry-boat or bridge is located or belongs, respectively, (c) stating the gross amount of such receipts for the month next preceding, which return shall be verified by the oath or affirmation of such owner, possessor, manager, agent or other proper officer, in the manner and form to be prescribed from time to time by the commissioner of internal revenue, and shall also, monthly, at the time of making such return, pay to the collector or deputy collector of the district the full amount of duties which have accrued on such receipts for the month aforesaid; and in case of neglect or refusal to make said lists or return for the space of five days after such return should be made as aforesaid, the assessor or assistant assessor shall proceed to estimate the amount received and the duties payable thereon, as hereinbefore provided in other cases of delinquency to make return for purposes of assessment; and for the purpose of making such assessment, or of ascertaining the correctness of any such return, the books of any such person, company or corporation shall be subject to the inspection of the assessor or assistant assessor on his demand or request therefor; and in case of neglect or refusal to pay the duties as aforesaid when the same have been ascertained as aforesaid, for the space of five days after the same shall have become payable, the owner, possessor or person having the management as aforesaid shall pay, in addition, five per centum on the amount of such duties; and for any attempt knowingly to evade the payment of such duties, the said owner, possessor or person having the care or management as aforesaid, shall be liable to pay a penalty of one thousand dollars for every such attempt, to be recovered as provided in this act for the recovery of penalties; and all provisions of this act in relation to liens and collections by distraint not incompatible herewith, shall apply to this section and the objects therein embraced: *Provided*, That all such persons, companies and corporations shall have the right to add the duty or tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitations which may exist by law or by agreement with any person or company which may have paid, or be liable to pay, such fare to the contrary notwithstanding.

249. Any person or persons, firms, companies or corporations, owning or possessing, or having the care or management of any ferry-boat, or vessel used as a ferry-boat, propelled by steam or horse-power, in lieu of the duties now imposed by law, shall be subject to pay a duty of one and one-half of one per centum upon the gross receipts of such ferry-boat; and the return and payment thereof shall be made in the manner prescribed in the act to which this act is an amendment.

250. On and after the first day of April 1863, any person or persons, firms, companies or corporations carrying on or doing an express business shall, in lieu of the tax and stamp duties imposed by existing laws, be subject to and pay a duty of two per centum on the gross amount of all the receipts of such express business, and shall be subject to the same provisions, rules and penalties as are prescribed in section eighty of the act to which this is an amendment, for the persons, firms, companies or corporations owning or possessing or having the management of railroads, steamboats and ferry-boats; and all acts or parts of acts inconsistent herewith are hereby repealed.

#### X. TAX ON RAILROAD BONDS, ETC.

251. On and after the first day of July 1862, any person or persons owning or possessing, or having the care or management of any railroad company or railroad corporation, (d) being indebted for any sum or sums of money for which bonds or other

(a) This includes the transportation of troops as well as other passengers. Dec. Com. Oct. 1862. Bout. 231. See regulations of the commissioner. Bout. 252.

(b) See Bout. 356.

(c) The returns should be made at the principal office; and where several roads are so united as to have but one office, the

return may be made for the entire line at such office. Dec. Com. Oct. 1862. Bout. 231. See Ibid. 405.

(d) It includes companies authorized by charter to build railroads or canals upon which passengers and freight, other than that of the company, are to be transported. Dec. Com. April 1863. Bout. 265.

1 July 1862.

Toll bridges.

Monthly returns to be made.

Payment of tax.

Penalty for neglect.

Books to be liable to inspection.

Penalty for evasion of duties.

Tax may be added to fare.

3 March 1863 § 9.  
12 Stat. 722.

Ferry-boats.

Ibid. § 10.

Express companies.

1 July 1862 § 81.  
12 Stat. 409.

Tax on railroad bonds.

1 July 1862.	evidences of indebtedness have been issued, (a) payable in one or more years after date, upon which interest is or shall be stipulated to be paid, or coupons representing the interest shall be or shall have been issued to be paid, and all dividends in scrip or money or sums of money thereafter declared due or payable to stockholders of any railroad company, as part of the earnings, profits or gains of said companies, (b) shall be subject to and pay a duty of three per centum on the amount of all such interest or coupons or dividends whenever the same shall be paid; and said railroad companies or railroad corporations, or any person or persons owning, possessing or having the care or management of any railroad company or railroad corporation, are hereby authorized and required to deduct and withhold from all payments made to any person, persons or party, after the first day of July as aforesaid, on account of any interest or coupons or dividends due and payable as aforesaid, the said duty or sum of three per centum; and the duties deducted as aforesaid, and certified by the president or other proper officer of said company or corporation, shall be a receipt and discharge, according to the amount thereof of said railroad companies or railroad corporations, and the owners, possessors and agents thereof, on dividends and on bonds or other evidences of their indebtedness, upon which interest or coupons are payable, holden by any person or party whatsoever, and a list or return shall be made and rendered within thirty days after the time fixed when said interest or coupons or dividends become due or payable, and as often as every six months, to the commissioner of internal revenue, which shall contain a true and faithful account of the duties received and chargeable as aforesaid, during the time when such duties have accrued or should accrue, and remaining unaccounted for; and there shall be annexed to every such list or return a declaration under oath or affirmation, in manner and form as may be prescribed by the commissioner of internal revenue, (c) of the president, treasurer or some proper officer of said railroad company or railroad corporation, that the same contains a true and faithful account of the duties so withheld and received during the time when such duties have accrued or should accrue, and not accounted for; and for any default in the making or rendering of such list or return, with the declaration annexed as aforesaid, the person or persons owning, possessing or having the care or management of such railroad company or railroad corporation making such default, shall forfeit as a penalty the sum of five hundred dollars; and in case of any default in making or rendering said list, or of any default in the payment of the duty or any part thereof, accruing or which should accrue, the assessment and collection shall be made according to the general provisions of this act.
To be deducted from dividends.	
Returns to be made on oath.	
Penalty for default.	
3 March 1863 § 8. 12 Stat. 721.	252. Any person or persons owning or possessing, or having the care or management of any canal company or canal navigation or slack-water corporation, or turnpike companies, (d) being indebted for any sum or sums of money for which bonds or other evidences of indebtedness have been issued, payable in one or more years after date, upon which interest is or shall be stipulated to be paid, or coupons representing the interest shall be or shall have been issued to be paid; and all dividends in scrip or money, or sums of money thereafter declared due or payable to stockholders of any canal navigation, or slack-water or turnpike company, as part of the earnings, profits or gains of said companies, shall be subject to and pay a duty of three per centum on the amount of all such interest, or coupons, or dividends whenever the same shall be paid; and said canal companies, or canal navigation, or slack-water corporations, or turnpike companies, or any person or persons owning, possessing or having the care or management of any canal company, or canal navigation, or slack-water corporation, or turnpike company, are hereby authorized and required to deduct and withhold from all payments made to any person, persons or party, after the first day of July as aforesaid, on account of any interest, or coupons, or dividends due and payable as aforesaid, the said duty or sum of three per centum; and the duties deducted as aforesaid, and certified by the president or other proper officer of said company or corporation shall be a receipt and discharge, according to the amount thereof, of said canal companies, or canal navigation, or slack-water corporations, or turnpike companies, and the owners, possessors and agents thereof, on dividends and on bonds or other evidences of their indebtedness upon which interest or coupons are payable, holden by any person or party whatsoever; and a list or return shall be made and rendered within thirty days after the time fixed when said interest or coupons or dividends become due or payable, and as often as every six months, to the commissioner of internal revenue, which shall contain a true and faithful account of the duties received and chargeable as aforesaid, during the time when such duties have accrued or should accrue, and remaining unaccounted for; and there shall be annexed to every such list or return a declaration, under oath or affirmation, in
Tax on bonds of canal and turnpike companies.	
To be deducted from dividends.	
Returns to be made on oath.	

(a) Coupon bonds issued by a state, county, &c., in aid of a railroad company, are taxable under this section. Dec. Com. Bout. 254. See *Ibid.* 386.  
(b) See Bout. 382.

(c) See Bout. 249, for the regulations established by the commissioner.

(d) See Bout. 249, for the regulations established by the commissioner.

manner and form as may be prescribed by the commissioner of internal revenue, of the president, treasurer or some proper officer of said canal company, or canal or navigation and slack-water corporation or turnpike companies, that the same contains a true and faithful account of the duties so withheld and received during the time when such duties have accrued or should accrue, and not accounted for; and for any default in the making or rendering of such list or return, with the declaration annexed as aforesaid, the person or persons owning, possessing or having the care or management of such canal company, or canal, navigation or slack-water corporation or turnpike companies, making such default, shall forfeit, as a penalty, the sum of five hundred dollars; and in case of any default in making or rendering said list, or of any default in the payment of the duty, or any part thereof, accruing or which should accrue, the assessment and collection shall be made according to the general provisions of the act to which this act is an amendment.

8 March 1863.

Penalty for default.

#### XI. TAX ON BANKS, TRUST COMPANIES, ETC.

253. On and after the first day of July 1862, there shall be levied, collected and paid by all banks, trust companies and savings institutions, and by all fire, marine, life, inland, stock and mutual insurance companies, under whatever style or name known or called, of the United States or territories, specially incorporated or existing under general laws, or which may be hereafter incorporated, or exist as aforesaid on all dividends in scrip or money thereafter declared due or paid to stockholders, to policy holders or to depositors, as part of the earnings, profits or gains of said banks, trust companies, savings institutions or insurance companies, and on all sums added to their surplus or contingent funds, a duty of three per centum: (a) *Provided*, That the duties upon the dividends of life insurance companies shall not be deemed due, or to be collected until such dividends shall be payable by such companies. And said banks, trust companies, savings institutions and insurance companies are hereby authorized and required to deduct and withhold from all payments made to any person, persons or party, on account of any dividends or sums of money that may be due and payable as aforesaid, after the first day of July 1862, the said duty of three per centum. (b) And a list or return shall be made and rendered within thirty days after the time fixed when such dividends or sums of money shall be declared due and payable, and as often as every six months, to the commissioner of internal revenue, which shall contain a true and faithful account of the amount of duties accrued, or which should accrue from time to time as aforesaid, during the time when such duties remain unaccounted for; and there shall be annexed to every such list or return a declaration, under oath or affirmation, to be made in form and manner as shall be prescribed by the commissioner of internal revenue, of the president, or some other proper officer of said bank, trust company, savings institution or insurance company respectively, that the same contains a true and faithful account of the duties which have accrued or should accrue, and not accounted for; and for any default in the delivery of such list or return, with such declaration annexed, the bank, trust company, savings institution or insurance company making such default, shall forfeit, as a penalty, the sum of five hundred dollars.

1 July 1862 § 82.  
12 Stat. 470.

Tax on dividends of banks, trust companies, &c.

To be deducted from dividends

Returns to be made on oath.

Penalty for default.

254. Any person or persons owning or possessing, or having the care or management of any railroad company or railroad corporation, bank, trust company, savings institution or insurance company, as heretofore mentioned, required under this act to make and render any list or return to the commissioner of internal revenue, shall, upon rendering the same, pay to the said commissioner of internal revenue the amount of the duties due on such list or return, and in default thereof shall forfeit as a penalty the sum of five hundred dollars; and in case of neglect or refusal to make such list or return as aforesaid, or to pay the duties as aforesaid, for the space of thirty days after the time when said list should have been made and rendered, or when said duties shall have become due and payable, the assessment and collection shall be made according to the general provisions heretofore prescribed in this act.

Ibid. § 83.

Payment of tax on dividends.

Penalty for neglect.

255. On the first day of October, Anno Domini 1862, and on the first day of each quarter of a year thereafter, there shall be paid by each insurance company, whether inland or marine, and by each individual or association engaged in the business of insurance from loss or damage by fire, or by the perils of the sea, the duty of one per centum upon the gross receipts (c) for premiums and assessments by such individual, association or company during the quarter then preceding; and like duty shall be paid by the agent of any foreign insurance company having an office or doing business within the United States.

Ibid. § 84.

Tax on insurance companies.

(a) Dividends paid by mutual insurance companies, in scrip or money, upon expiring or expired policies, are subject to this tax. Dec. Com. Oct. 1862. Bout. 282.

(b) See Bout. 226. And for the regulations established by the commissioner, see Bout. 248.

(c) If an insurance company refund to the holder of an open policy, any part of the premium, because the policy has not been used in full, the amount may be deducted from the gross taxable receipts for the quarter. Dec. Com. Oct. 1862. Bout. 232.

1 July 1862 § 85.

Insurance companies to make returns on oath.

Penalty for neglect.

3 March 1863 § 7.  
12 Stat. 712.

Duty on bank circulation.

Branches.

Banks issuing fractional notes to be subject to additional tax.

Banks of deposit.

Returns, when and how to be made.

Oath.

256. On the first day of October next, and on the first day of each quarter thereafter, an account shall be made and rendered to the commissioner of internal revenue by all insurance companies or their agents, or associations or individuals making insurance, except life insurance, including agents of all foreign insurance companies, which shall contain a true and faithful account of the insurance made, renewed or continued, or indorsed upon any open policy by said companies or their agents, or associations or individuals during the preceding quarter, setting forth the amount insured, and the gross amount received, and the duties accruing thereon under this act; and there shall be annexed to and delivered with every such quarterly account an affidavit, in the form to be prescribed by the commissioner of internal revenue, made by one of the officers of said company or association or individual, or by the agent in the case of a foreign company, that the statements in said accounts are in all respects just and true; and such quarterly accounts shall be rendered to the commissioner of internal revenue within thirty days after the expiration of the quarter for which they shall be made up, and upon rendering such account, with such affidavit as aforesaid thereto annexed, the amount of the duties due by such quarterly accounts shall be paid to the commissioner of internal revenue; and for every default in the delivery of such quarterly account, with such affidavit annexed thereto, or in the payment of the amount of the duties due by such quarterly account, the company or agent, or association or individual making such default, shall forfeit and pay, in addition to such duty, the sum of five thousand dollars.

257. All banks, associations, corporations or individuals, issuing notes or bills for circulation as currency, shall be subject to and pay a duty of one per centum each half year from and after April 1st 1863, upon the average amount of circulation of notes or bills as currency issued beyond the amount hereinafter named, (a) that is to say: banks, associations, corporations or individuals, having a capital of not over one hundred thousand dollars, ninety per centum thereof; over one hundred thousand and not over two hundred thousand dollars, eighty per centum thereof; over two hundred thousand and not over three hundred thousand dollars, seventy per centum thereof; over three hundred thousand and not over five hundred thousand dollars, sixty per centum thereof; over five hundred thousand and not over one million of dollars, fifty per centum thereof; over one million and not over one million and a half of dollars, forty per centum thereof; over one million and a half and not over two millions of dollars, thirty per centum thereof; over two millions of dollars twenty-five per centum thereof. In the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of the notes or bills of such branches severally, and not upon the aggregate circulation of all; and the amount of capital of each branch shall be considered to be the amount allotted to or used by such branch; and all such banks, associations, corporations and individuals shall also be subject to and pay a duty of one-half of one per centum each half year from and after April 1st 1863, upon the average amount of notes or bills not otherwise herein taxed and outstanding as currency during the six months next preceding the return hereinafter provided for; and the rates of tax or duty imposed on the circulation of associations which may be organized under the act "to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February 25th 1863, shall be the same as that hereby imposed on the circulation and deposits of all banks, associations, corporations or individuals, but shall be assessed and collected as required by said act; all banks, associations or corporations, and individuals issuing or reissuing notes or bills for circulation as currency after April 1st 1863, in sums representing any fractional part of a dollar, shall be subject to and pay a duty of five per centum each half year thereafter upon the amount of such fractional notes or bills so issued. And all banks, associations, corporations and individuals receiving deposits of money subject to payment on check or draft, except savings institutions, shall be subject to a duty of one-eighth of one per centum each half year from and after April 1st 1863, upon the average amount of such deposits beyond the average amount of their circulating notes or bills lawfully issued and outstanding as currency. (b) And a list or return shall be made and rendered within thirty days after the first of October 1863, and each six months thereafter, to the commissioner of internal revenue, which shall contain a true and faithful account of the amount of duties accrued or which should accrue on the full amount of the fractional note circulation, and on the average amount of all other circulation, and of all such deposits, for the six months next preceding. And there shall be annexed to every such list or return a declaration, under oath or affirmation, to be made in form and manner as shall be prescribed by the commissioner of internal revenue, of the president or some other proper officer of said bank, association, corporation or individual respectively, that the same contains a true and

(a) See Bout. 260, for the regulations established by the commissioner.

(b) A bank that has no circulation, must pay the tax on the amount of its average deposits. Bout. 262.

faithful account of the duties which have accrued or which should accrue, and not accounted for; and for any default in the delivery of such list or return, with such declaration annexed, the bank, association, corporation or individual making such default shall forfeit, as a penalty, the sum of five hundred dollars. And such bank, association, corporation or individual shall, upon rendering the list or return as aforesaid, pay to the commissioner of internal revenue the amount of the duties due on such list or return, and in default thereof shall forfeit, as a penalty, the sum of five hundred dollars; and in case of neglect or refusal to make such list or return as aforesaid, or to pay the duties as aforesaid, for the space of thirty days after the time when said list should have been made or rendered, or when said duties shall have become due and payable, the assessment and collection shall be made according to the general provisions prescribed in an act entitled "An act to provide internal revenue to support the government and to pay interest on the public debt," approved July 1st 1862.

3 March 1863.  
Penalty for neglect.  
Payment of tax.

258. Any person or persons, firm, company or corporation who shall issue tickets or contracts of insurance against fatal or non-fatal injury to persons while travelling by land or water, shall pay a duty of one per centum on the gross amount of all the receipts for such insurance, and shall be subject to all the provisions and regulations of existing law applicable thereto, in relation to insurance companies: *Provided*, That no stamp duty shall be required upon tickets or contracts of insurance as aforesaid, when limited to fatal or non-fatal injury to persons while travelling.

3 March 1863 § 3.  
12 Stat. 719.  
Tax on companies insuring against injury to travellers.

259. Every incorporated bank, or other bank legally authorized to issue notes as circulation, which shall neglect or omit to make dividends or additions to its surplus or contingent funds as often as once in six months, shall, in lieu thereof, make returns, under oath, to the commissioner of internal revenue, on the first days of January and July in each year, or within thirty days thereafter, of the amount of profits which have accrued or been earned and received by said bank during the six months next preceding said first days of January and July; and, at the time of making such returns, shall pay to the commissioner of internal revenue a duty of three per cent. on such profits, and shall be subject to the provisions of the eighty-second section of the act to which this is an addition: *Provided*, That the return for the first of January 1863 shall be made within thirty days after the passage of this act.

Ibid. § 14.  
Duty where banks make no dividends.

## XII. TAX ON SALARIES AND PASSPORTS.

260. On and after the first day of August 1862, there shall be levied, collected and paid on all salaries of officers, or payments to persons in the civil, military, naval or other employment or service of the United States, (a) including senators and representatives and delegates in congress, when exceeding the rate of six hundred dollars per annum, a duty of three per centum on the excess above the said six hundred dollars; and it shall be the duty of all paymasters, and all disbursing officers, under the government of the United States, or in the employ thereof, when making any payments to officers and persons as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per centum, and shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the commissioner of internal revenue, and entered as part of the internal duties; (b) and the pay-roll, receipts or account of officers or persons paying such duty as aforesaid shall be made to exhibit the fact of such payment.

1 July 1862 § 28.  
12 Stat. 472.  
Tax on salaries.

To be deducted by disbursing officers.

261. For every passport issued from the office of the secretary of state after the 30th day of June 1862, there shall be paid the sum of three dollars; which amount may be paid to any collector appointed under this act, and his receipt therefor shall be forwarded with the application for such passport to the office of the secretary of state, or any agent appointed by him; and the collectors shall account for all moneys received for passports in the manner hereinbefore provided; and a like amount shall be paid for every passport issued by any minister or consul of the United States, who shall account therefor to the treasury.

Ibid. § 87.  
Tax on passports

## XIII. DUTIES ON ADVERTISEMENTS.

262. On and after the first day of August 1862, there shall be levied, collected and paid by any person or persons, firm or company publishing any newspaper, magazine, review or other literary, scientific or news publication, issued periodically, on the gross receipts for all advertisements, or all matters for the insertion of which in said newspaper or other publication as aforesaid, or in extras, supplements, sheets or fly-leaves

1 July 1862 § 88.  
12 Stat. 472.  
Duties on advertisements.

(a) If persons are employed by the government, and paid for their services by the day, week or month, payments to them will be subject to a duty of three per cent.; the amount of tax is to be calculated upon a basis of three hundred working days in each year. Payments not exceeding \$600 per annum, \$50 per month, or \$2 per diem, are therefore exempt from taxation. Dec. Com.

Sept. 1863. No. 123.

(b) The amounts withheld by collectors as a tax on the salaries of assistant assessors, must be transmitted to the office monthly; they are not to be entered on the monthly abstracts. Circular No. 10, 31 July 1863.



1 July, 1862.	Quarterly returns to be made on oath.	accompanying the same, pay is required or received, a duty of three per centum; and the person or persons, firm or company, owning, possessing or having the care or management of any and every such newspaper or other publication as aforesaid, shall make a list or return quarterly, commencing as heretofore mentioned, containing the gross amount of receipts as aforesaid, and the amount of duties which have accrued thereon, and render the same to the assistant assessor of the respective districts where such newspaper, magazine, review or other literary or news publication is or may be published, which list or return shall have annexed a declaration, under oath or affirmation, to be made according to the manner and form which may be from time to time prescribed by the commissioner of internal revenue, of the owner, possessor or person having the care or management of such newspaper, magazine, review or other publication as aforesaid, that the same is true and correct, and shall also, quarterly, and at the time of making said list or return, pay to the collector or deputy collector of the district as aforesaid the full amount of said duties. And in case of neglect or refusal to comply with any of the provisions contained in this section, or to make and render said list or return as aforesaid for the space of thirty days after the time when said list or return ought to have been made as aforesaid, the assistant assessor of the respective districts shall proceed to estimate the duties, as heretofore provided in other cases of delinquency; and in case of neglect or refusal to pay the duties as aforesaid for the space of thirty days after said duties become due and payable, said owner, possessor or person or persons having the care or management of said newspapers or publications as aforesaid, shall pay, in addition thereto, a penalty of five per centum on the amount due; and in case of fraud or evasion, whereby the revenue is attempted to be defrauded, or the duty withheld, said owners, possessors or person or persons having the care or management of said newspapers or other publications as aforesaid shall forfeit and pay a penalty of five hundred dollars for each offence, or for any sum fraudulently unaccounted for; and all provisions in this act in relation to liens, assessments and collection, not incompatible herewith, shall apply to this section and the objects herein embraced: <i>Provided</i> , That in all cases where the rate or price of advertising is fixed by any law of the United States, state or territory, it shall be lawful for the company, person or persons, publishing said advertisements, to add the duty or tax imposed by this act to the price of said advertisements, any law as aforesaid to the contrary notwithstanding: <i>Provided further</i> , That the receipts for advertisements to the amount of one thousand dollars by any person or persons, firm or company publishing any newspaper, magazine, review or other literary, scientific, news publication, issued periodically, shall be exempt from duty: <i>And provided further</i> , That all newspapers whose circulation does not exceed two thousand copies shall be exempted from all taxes for advertisements. (a)
Payment of duties.	Penalty for default.	
Penalty for fraud or evasion.		
Duty to be added to price of advertising.		
Exemptions.		

## XIV. INCOME DUTIES.

1 July 1862 § 89. 12 Stat. 473.	263. That for the purpose of modifying and re-enacting, as hereinafter provided, so much of an act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved 5th of August 1861, as relates to income tax; that is to say, sections 49, 50 (except so much thereof as relates to the selection and appointment of depositaries), and 51, be and the same are hereby repealed.
Repeal of former law.	
Ibid. § 90.	264. There shall be levied, collected and paid annually, upon the annual gains, profits or income of every person residing in the United States, whether derived from any kind of property, rents, interest, dividends, salaries, or from any profession, trade, employment or vocation carried on in the United States or elsewhere, (b) or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits or income exceed the sum of six hundred dollars, and do not exceed the sum of ten thousand dollars, a duty of three per centum on the amount of such annual gains, profits or income over and above the said sum of six hundred dollars; if said income exceeds the sum of ten thousand dollars, a duty of five per centum upon the amount thereof exceeding six hundred dollars; and upon the annual gains, profits or income, rents and dividends accruing upon any property, securities and stocks owned in the United States by any citizen of the United States residing abroad, except as hereinafter mentioned, and not in the employment of the government of the United States, there shall be levied, collected and paid a duty of five per centum.
Income duties.	
Ibid. § 91.	265. In estimating said annual gains, profits or income, whether subject to a duty, as provided in this act, of three per centum, or of five per centum, all other national, state and local taxes, lawfully assessed upon the property or other sources of income of any person as aforesaid, from which said annual gains, profits or income of such person is
What deductions to be made from gross income.	

(a) If the combined circulation of a weekly, tri-weekly and daily newspaper, published in one office by the same parties and composed principally of the same matter, exceed 2000, it is liable

to the tax on advertisements. Dec. Com. Oct. 1862. Bout. 230. See Ibid. 375.

(b) See *Sulley v. Attorney-General*, 23 Law Rep. 175.

or should be derived, shall be first deducted from the gains, profits or income of the person or persons who actually pay the same, whether owner or tenant, and all gains, profits or income derived from salaries of officers or payments to persons in the civil, military, naval or other service of the United States, including senators, representatives and delegates in congress, above six hundred dollars, or derived from interest or dividends on stock, capital or deposits in any bank, trust company or savings institution, insurance, \* \* bridge, express, telegraph, steamboat, ferry-boat or railroad company or corporation, or on any bonds or other evidences of indebtedness of any railroad company or other corporation, which shall have been assessed and paid by said banks, trust companies, savings institutions, insurance, \* \* bridge, telegraph, steamboat, ferry-boat, express or railroad companies as aforesaid, or derived from advertisements, \* \* upon which specific, stamp or ad valorem duties shall have been directly assessed or paid, shall also be deducted; (a) and the duty herein provided for shall be assessed and collected upon the income for the year ending the 31st day of December next preceding the time for levying and collecting said duty, that is to say, on the first day of May 1863, and in each year thereafter: *Provided*, That upon such portion of said gains, profits or income, whether subject to a duty as provided in this act of three per centum or of five per centum, which shall be derived from interest upon notes, bonds or other securities of the United States, there shall be levied, collected and paid a duty not exceeding one and one-half of one per centum, anything in this act to the contrary notwithstanding. (b)

1 July 1862.

Income duties on government securities.

Ibid. § 92.

266. The duties on incomes herein imposed shall be due and payable on or before the 30th day of June, in the year 1863, and in each year thereafter until and including the year 1866, and no longer; and to any sum or sums annually due and unpaid for thirty days after the thirtieth of June as aforesaid, and for ten days after demand thereof by the collector, there shall be levied in addition thereto the sum of five per centum on the amount of duties unpaid, as a penalty, except from the estates of deceased and insolvent persons; and if any person or persons or party, liable to pay such duty, shall

When income duties to be payable

Penalty for default.

(a) The commissioner of internal revenue has issued the following instructions in reference to the assessment and collection of the income duties:—

"The income tax must be assessed and paid in the district in which the assessed person resides. The place where a person votes, or is entitled to vote, is deemed his residence. When not a voter, the place where tax on personal property is paid is held to be the place of residence.

"In cases of limited partnerships, formed with the condition that no dividend or division of profits shall be made until the expiration of the partnership, each member of such firm will be required to return his share of profits arising from such business, for the year 1862, as, had they so desired, a division of the profits could have been made.

"Gains or profits realized from the sale of property during the year 1862, which property was purchased before the excise law went into effect, should be returned as income for the year 1862.

"The executors or administrators of the estates of persons, who died in the year 1862, should make return of the income thereof for the year 1862.

"A merchant's return of income should cover the business of the year 1862, excluding previous years. Uncollected accounts must be estimated.

"Physicians and lawyers should include actual receipts for services rendered in 1862, together with an estimate of unrealized or contingent income due to that year.

"Dividends and interest payable in 1862 should be returned as income for that year, no matter when declared.

"Dividends derived from gas stock are taxable as income.

"Income derived from coal-mines must be returned, although a tax has been previously paid on the coal produced. No deduction can be made because of the diminished value, actual or supposed, of the coal vein or bed, by the process of mining. Rent derived from coal-mines is income.

"Premiums paid for life insurance shall not be allowed as a deduction in statement of income.

"Pensions received from the United States government must be returned with other income subject to taxation.

"Old debts, formerly considered hopelessly lost, but paid within the time covered by the return of income, should be included in this statement.

"Debts considered hopelessly lost on the 31st of December, 1862, and due to the business of the year 1862, may be deducted from the profits of business; if subsequently paid, they must be included in the return for the year in which paid.

"In order to give full effect to the provision to the 31st section of the act of July 1st 1862, respecting the tax on that portion of income derived from United States securities, it is directed that when income is derived partly from these and partly from other sources, the \$600 and other allowances made by law shall be deducted, as far as possible, from that portion of income derived from other sources, and subject to three per cent. tax.

"No deduction can be allowed from the taxable income of a merchant for compensation paid for the services of a minor son.

"A farmer, when making return of the total amount of his 'farm produce,' shall be allowed to deduct therefrom the subsistence of horses, mules, oxen, and cattle used exclusively in the carrying on of said farm. The term 'farm produce' is construed to include all productions of a farm, of what nature or kind soever.

"The account of stock sold by a farmer since December 31st 1862, should not be included in the present assessment, but the profit realized thereby must be accounted for in his next year's return. Where he has included in his return produce raised by him, and fed in whole or part to stock subsequently sold, he must account for the gain realized by the feeding and selling of said stock. Where he has not included the produce so fed, he must return, as profits, the difference between the value of said stock on the 31st of December 1861, and the amount realized for them.

"Fertilizers purchased by farmers, to maintain their land in present productive condition, will be considered as 'repairs' in estimating income.

"Interest should be considered as income only when paid, unless it is collectable and remains unpaid by the consent or agreement of the creditor.

"Losses incurred in the prosecution of business are a fair offset to gains derived from business, but not from those portions of income derived from fixed investments, such as bonds, mortgages, rents and the like.

"Property used in business, and furnishing profits, when destroyed by fire, may be restored, at the expense of those profits, to the condition when destroyed; if insured, the difference between insurance received and amount expended in restoration will be allowed.

"The increased value given a new building by permanent improvements will be charged to capital—not income.

"The income of literary, scientific, or other charitable institutions, in the hands of trustees or others, is not subject to income tax.

"When a person rents a room or rooms, the rent thereof, in lieu of rent of house, should be deducted from the amount of income subject to taxation, wherever the room is used as a house for a family.

"Losses sustained in business since December 31st 1862, will not enter into the income assessment for 1862.

"Interest on borrowed capital may be deducted from income.

"If a planter returns all his farm products, he will be allowed to deduct the actual expense of subsisting and clothing his slaves.

"Legatees are not required to return their legacies as income. There is a special tax on legacies of personal property in section 111.

"The income tax is assessed upon the actual income of individuals. Firms, as such, will not make returns.

"The profits of a manufacturer from his business are not exempt from income tax, in consequence of his having paid the excise tax imposed by law upon articles manufactured by him.

"As bridge, express, telegraph, steam and ferry boat companies or corporations are not authorized by law to withhold and pay to government any tax upon interest paid, or dividend declared by them, all income of individuals derived from these sources is liable to income tax.

"All persons neglecting or refusing to make return of income, except in case of sickness, are brought within the penalties prescribed by the 11th section of the act of July 1st 1862, viz. an addition of 50 per cent. to the amount ascertained by the assistant assessor, upon such information as he can obtain, and a penalty of \$100, to be recovered for the United States, with costs of suit." Bout. 273.

(b) So amended by act 3 March 1863. 12 Stat. 718.

**1 July 1863.** neglect or refuse to pay the same, the amount due shall be a lien in favor of the United States from the time it was so due until paid, with the interest, penalties and costs that may accrue in addition thereto, upon all the property, and rights to property, stocks, securities and debts of every description from which the income upon which said duty is assessed or levied shall have accrued, or may or should accrue; and in default of the payment of said duty for the space of thirty days, after the same shall have become due and be demanded as aforesaid, said lien may be enforced by distraint upon such property, rights to property, stocks, securities and evidences of debt, by whomsoever holden; and for this purpose the commissioner of internal revenue, upon the certificate of the collector or deputy collector that said duty is due and unpaid for the space of ten days after notice duly given of the levy of such duty, shall issue a warrant in form and manner to be prescribed by said commissioner of internal revenue, under the directions of the secretary of the treasury, and by virtue of such warrant there may be levied on such property, rights to property, stocks, securities and evidences of debt, a further sum, to be fixed and stated in such warrant, over and above the said annual duty, interest and penalty for non-payment, sufficient for the fees and expenses of such levy. And in all cases of sale as aforesaid, the certificate of such sale by the collector or deputy collector of the sale, shall give title to the purchaser of all right, title and interest of such delinquent in and to such property, whether the property be real or personal; and where the subject of sale shall be stocks, the certificate of said sale shall be lawful authority and notice to the proper corporation, company or association, to record the same on the books or records in the same manner as if transferred or assigned by the person or party holding the same, to issue new certificates of stock therefor in lieu of any original or prior certificates, which shall be void whether cancelled or not; and said certificates of sale of the collector or deputy collector, where the subject of sale shall be securities or other evidences of debt, shall be good and valid receipts to the person or party holding the same, as against any person or persons, or other party holding or claiming to hold possession of such securities or other evidences of debt.

**To be collected by distress.**

**Proceedings thereon.**

**Sales regulated.**

**Title of purchasers.**

**Ibid. § 93.** 267. It shall be the duty of all persons of lawful age, and all guardians and trustees, whether such trustees are so by virtue of their office as executors, administrators or other fiduciary capacity, to make return in the list or schedule, as provided in this act, to the proper officer of internal revenue, of the amount of his or her income, or the income of such minors or persons as may be held in trust as aforesaid, according to the requirements hereinbefore stated, and in case of neglect or refusal to make such return, the assessor or assistant assessor shall assess the amount of his or her income, and proceed thereafter to collect the duty thereon, in the same manner as is provided for in other cases of neglect and refusal to furnish lists or schedules in the general provisions of this act, where not otherwise incompatible, (a) and the assistant assessor may increase the amount of the list or return of any party making such return, if he shall be satisfied that the same is understated: *Provided*, That any party, in his or her own behalf, or as guardian or trustee as aforesaid, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the commissioner of internal revenue, that he or she was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this act, or that he or she has been assessed elsewhere and the same year for an income duty, under authority of the United States, and shall thereupon be exempt from an income duty; (b) or if the list or return of any party shall have been increased by the assistant assessor, in manner as aforesaid, he or she may be permitted to declare as aforesaid, the amount of his or her annual income, or the amount held in trust as aforesaid, liable to be assessed as aforesaid, and the same so declared shall be received as the sum upon which duties are to be assessed and collected.

**Returns to be made by parties liable to income duty.**

**How assessed in case of refusal.**

**3 March 1863 § 11. 12 Stat. 728.** 268. In estimating the annual gains, profit or income of any person, under the act to which this act is an amendment, the amount annually paid by such person for the rent of the dwelling-house or estate on which he resides, shall be first deducted from the gains, profit or income of such person.

**House rent to be deducted from income.**

#### XV. STAMP DUTIES.

**1 July 1862 § 94. 12 Stat. 475.** 269. On and after the first day of October 1862, there shall be levied, collected and paid, for and in respect of the several instruments, matters and things mentioned and described in the schedule (marked B) hereunto annexed, or for or in respect of the vellum, parchment or paper upon which such instruments, matters or things, or any of them, shall be written or printed by any person or persons, or party who shall make, sign or

**Stamp duties to be levied.**

(a) The act 3 March 1863, § 1, provides that in case of neglect or refusal to make such returns, the proceedings thereafter for the assessment and collection of the duty shall be in the same manner as provided for in other cases of neglect. 12 Stat. 718.  
(b) See Bout. 258.

1 July 1862.

issue the same, or for whose use or benefit the same shall be made, signed or issued, the several duties or sums of money set down in figures against the same respectively, or otherwise specified or set forth in the said schedule.

270. If any person or persons shall make, sign or issue, (a) or cause to be made, signed or issued, any instrument, document or paper of any kind or description whatsoever, without the same being duly stamped (b) for denoting the duty hereby imposed thereon, or without having thereupon an adhesive stamp to denote said duty, such person or persons shall incur a penalty of fifty dollars, and such instrument, document or paper as aforesaid shall be deemed invalid and of no effect.

Ibid. § 95.

Penalty for issuing unstamped documents.

271. No stamp appropriated to denote the duty charged on any particular instrument, and bearing the name of such instrument on the face thereof, shall be used for denoting any other duty of the same amount, or if so used the same shall be of no avail. (c)

Ibid. § 96.

Appropriate stamps to be used.

272. No vellum, parchment or paper, bearing a stamp appropriated by name to any particular instrument, shall be used for any other purpose, or if so used the same shall be of no avail.

Ibid. § 97.

Instruments to be appropriately stamped.

Ibid. § 98.

Punishment for forging or counterfeiting stamps

273. If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp or die, or any part of any stamp or die, which shall have been provided, made or used in pursuance of this act, or shall forge, counterfeit or resemble, or cause or procure to be forged, counterfeited or resembled, the impression, or any part of the impression of any such stamp or die as aforesaid, upon any vellum, parchment or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment or paper, with any such forged or counterfeited stamp or die, or part of any stamp or die as aforesaid, with intent to defraud the United States of any of the duties hereby imposed, or any part thereof, or if any person shall utter or sell, or expose to sale any vellum, parchment or paper, article or thing, having thereupon the impression of any such counterfeited stamp or die, or any part of any stamp or die, or any such forged, counterfeited or resembled impression, or part of impression as aforesaid, knowing the same respectively to be forged, counterfeited or resembled; or if any person shall knowingly use any stamp or die which shall have been so provided, made or used as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear or get off, or cause or procure to be cut, torn or got off, the impression of any stamp or die which shall have been provided, made or used in pursuance of this act, from any vellum, parchment or paper, or any instrument or writing charged or chargeable with any of the duties hereby imposed, then, and in every such case, every person so offending, and every person knowingly and wilfully aiding, abetting or assisting in committing any such offence as aforesaid, shall be deemed guilty of felony, and shall, on conviction thereof, forfeit the said counterfeit stamps and the articles upon which they are placed, and be punished by fine not exceeding one thousand dollars, and by imprisonment and confinement to hard labor not exceeding five years.

Or using such forged stamp.

274. In any and all cases where an adhesive stamp shall be used for denoting any duty imposed by this act, except as hereinafter provided, the person using or affixing the same shall write thereupon the initials of his name, and the date upon which the same shall be attached or used, so that the same may not again be used. (d) And if any person shall fraudulently make use of an adhesive stamp to denote any duty imposed by this act without so effectually cancelling and obliterating such stamp, except as before mentioned, he, she or they shall forfeit the sum of fifty dollars: *Provided, nevertheless*, That any proprietor or proprietors of proprietary articles, or articles subject to stamp duty under schedule C of this act, shall have the privilege of furnishing, without expense to the United States, in suitable form, to be approved by the commissioner of internal revenue, his or their own dies or designs for stamps to be used thereon, to be retained in the possession of the commissioner of internal revenue, for his or their separate use, which shall not be duplicated to any other person. That in all cases where such stamp is used, instead of his or their writing, his or their initials and the date thereon, the said stamp shall be so affixed on the box, bottle or package, that in opening the same, or using the contents thereof, the said stamp shall be effectually destroyed; and in default thereof shall be liable to the same penalty imposed for neglect to affix said stamp as hereinbefore prescribed in this act. Any person who shall fraudulently obtain or use any of the aforesaid stamps or designs therefor, and any person forging or counterfeiting, or causing or procuring the forging or counterfeiting any representa-

Ibid. § 99.

Stamps, how cancelled.

Penalty for neglect.

Who may furnish their own stamps

How cancelled in such cases.

(a) The person who makes, signs or issues an instrument must affix the stamp, or he incurs the penalty. Dec. Com. Nov. 1862. Bout. 254. If he neglect to do so, the person receiving it, may before the instrument is used, affix and cancel a new stamp thereon. In cancelling such stamp, he should use the initials of the maker. Bout. 389. So also, a person receiving an unstamped instrument may, before using it, affix and cancel a proper stamp. Ibid.

and if other matters are embraced, accessory or incidental, no additional stamp in respect to them will be required. Corder v. Drakeford, 3 Taunt. 382. Bout. 359.

(c) See *infra* 287.

(d) The person who affixes the stamp must cancel it. Dec. Com. Nov. 1862. Bout. 255. Where several persons join in the execution of an instrument, the stamps may be affixed and cancelled by either of them. Ibid. 253.

1 July 1862.

Penalty for neglect.

Punishment for counterfeiting such private stamps.

tion, likeness, similitude or colorable imitation of the said last-mentioned stamp, or any engraver or printer who shall sell or give away said stamps or selling the same, or, being a merchant, broker, pedlar or person dealing, in whole or in part, in similar goods, wares, merchandise, manufactures, preparations or articles, or those designed for similar objects or purposes, shall have knowingly or fraudulently in his, her or their possession any such forged, counterfeited likeness, similitude or colorable imitation of the said last-mentioned stamp, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to all the penalties, fines and forfeitures prescribed in section ninety-eight (a) of this act.

Ibid. § 100.

Penalty for issuing bills, notes, &amp;c., without being stamped.

275. If any person or persons shall make, sign or issue, or cause to be made, signed or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp duty, any bill of exchange, draft or order, or promissory note for the payment of money, liable to any of the duties imposed by this act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the duty hereby charged thereon, he, she or they shall, for every such bill, draft, order or note, forfeit the sum of two hundred dollars.

Ibid. § 101.

Acceptors of bills drawn abroad to affix stamps.

276. The acceptor or acceptors of any bill of exchange or order for the payment of any sum of money drawn, or purporting to be drawn, in any foreign country, but payable in the United States, shall, before paying or accepting the same, place thereupon a stamp indicating the duty upon the same, as the law requires for inland bills of exchange or promissory notes; and no bill of exchange shall be paid or negotiated without such stamp; and if any person shall pay or negotiate, or offer in payment, or receive or take in payment, any such draft or order, the person or persons so offending shall forfeit the sum of one hundred dollars.

Ibid. § 102.

Who to be supplied with stamps.

277. That the commissioner of internal revenue be and is hereby authorized to sell to and supply collectors, deputy collectors, postmasters, stationers or any other persons, at his discretion, with adhesive stamps or stamped paper, vellum or parchment, as herein provided for, upon the payment, at the time of delivery, of the amount of duties said stamps, stamped paper, vellum or parchment so sold or supplied represent, and may allow upon (b) the aggregate amount of such stamps as aforesaid the sum of not exceeding five per centum as commission to the collectors, postmasters, stationers or other purchasers; but the cost of any paper, vellum or parchment shall be paid by the purchaser of such stamped paper, vellum or parchment: (b) *Provided*, That no commission shall be allowed on any sum or sums so sold or supplied of less amount than fifty dollars. *And provided further*, That any proprietor or proprietors of articles named in schedule C, who shall furnish his or their own die or design for stamps, to be used especially for his or their own proprietary articles, shall be allowed the following commission, (b) namely: on amounts purchased at one time of not less than fifty nor more than five hundred dollars, five per centum; on amounts over five hundred dollars, ten per centum. The commissioner of internal revenue may from time to time make regulations for the allowance of such of the stamps issued under the provisions of this act, as may have been spoiled or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been paid in error or remitted; and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value, after deducting therefrom, in case of repayment, the sum of five per centum to the owner thereof.

Commission thereon.

Discount on proprietary stamps.

Allowance to be made for stamps rendered useless.

Ibid. § 103.

Commissioner to decide whether instrument be liable to stamp.

278. It shall be lawful for any person to present to the commissioner of internal revenue any instrument, and require his opinion whether or not the same is chargeable with any duty; and if the said commissioner shall be of opinion that such instrument is not chargeable with any stamp duty, it shall be lawful for him, and he is hereby required, to impress thereon a particular stamp, to be provided for that purpose, with such word or words or device thereon as he shall judge proper, which shall signify and denote that such instrument is not chargeable with any stamp duty; and every such instrument upon which the said stamp shall be impressed shall be deemed to be not so chargeable, and shall be received in evidence in all courts of law or equity, notwithstanding any objections made to the same, as being chargeable with stamp duty, and not stamped to denote the same.

Special stamp for such cases.

Ibid. § 104.

Telegraph companies not to send unstamped messages.

279. On and after the date on which this act shall take effect, no telegraph company or its agent or employee shall receive from any person, or transmit to any person, any dispatch or message without an adhesive stamp denoting the duty imposed by this act being affixed to a copy thereof, or having the same stamped thereupon, and in default thereof shall incur a penalty of ten dollars: *Provided*, That only one stamp shall be required, whether sent through one or more companies. (c)

(a) So amended by act 3 March 1863. 12 Stat. 718.  
(b) Act 3 March 1863. 12 Stat. 718.

(c) See Bout. 233.

280. All the provisions of this act relating to dies, stamps, adhesive stamps and stamp duties shall extend to and include (except where manifestly inapplicable) all the articles or objects enumerated in schedule marked C, subject to stamp duties, and apply to the provisions in relation thereto.

1 July 1862 § 106.

Act to apply to proprietary stamps.

281. On and after the first day of August 1862, no person or persons, firms, companies or corporations shall make, prepare and sell, or remove for consumption or sale, drugs, medicines, preparations, compositions, articles or things, including perfumery, cosmetics and playing cards, upon which a duty is imposed by this act, as enumerated and mentioned in schedule C, without affixing thereto an adhesive stamp or label denoting the duty before mentioned, and in default thereof shall incur a penalty of ten dollars: *Provided*, That nothing in this act contained shall apply to any uncompounded medicinal drug or chemical, nor to any medicine compounded according to the United States or other national pharmacopœia, (a) nor of which the full and proper formula is published in either of the dispensatories, formularies or text-books in common use among physicians and apothecaries, including homœopathic and eclectic, or in any pharmaceutical journal now used by any incorporated college of pharmacy, and not sold or offered for sale, or advertised under any other name, form or guise than that under which they may be severally denominated and laid down in said pharmacopœias, dispensatories, text-books or journals as aforesaid, (b) nor to medicines sold to or for the use of any person, which may be mixed and compounded specially for said persons, according to the written recipe or prescription of any physician or surgeon.

Ibid. § 107.

Patent medicines and playing cards not to be sold without stamp.

282. Every manufacturer or maker of any of the articles for sale mentioned in schedule C, after the same shall have been so made, and the particulars hereinbefore required as to stamps have been complied with, who shall take off, remove or detach, or cause or permit, or suffer to be taken off or removed or detached, any stamp, or who shall use any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrapper or cover with such stamp when first used, with the intent to evade the stamp duties, shall for every such article, respectively, in respect of which any such offence shall be committed, be subject to a penalty of fifty dollars, to be recovered, together with the costs thereupon accruing, and every such article or commodity as aforesaid shall also be forfeited.

Ibid. § 108.

Penalty for removing such stamp with fraudulent intent.

283. Every maker or manufacturer of any of the articles or commodities mentioned in schedule C as aforesaid, who shall sell, send out, remove or deliver any article or commodity manufactured as aforesaid, before the duty thereon shall have been fully paid, by affixing thereon the proper stamp, as in this act provided, or who shall hide or conceal, or cause to be hidden or concealed, or who shall remove or convey away, or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the duty chargeable thereon, or any part thereof, shall be subject to a penalty of one hundred dollars, together with the forfeiture of any such article or commodity: *Provided*, That medicines, preparations, compositions, perfumery and cosmetics, upon which stamp duties are required by this act, may, when intended for exportation, be manufactured and sold, or removed without having stamps affixed thereto, and without being charged with duty as aforesaid; and every manufacturer or maker of any article as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may be from time to time prescribed by the secretary of the treasury. (c)

Ibid. § 109.

Penalty for selling without stamp.

284. Every manufacturer or maker of any of the articles or commodities as aforesaid, or his chief workman, agent or superintendent, shall at the end of each and every month make and sign a declaration in writing that no such article or commodity as aforesaid has, during such preceding month, or time when the last declaration was made, been removed, carried or sent, or caused or suffered, or known to have been removed, carried or sent from the premises of such manufacturer or maker, other than such as have been duly taken account of and charged with the stamp duty, on pain of such manufacturer or maker forfeiting for every refusal or neglect to make such declaration one hundred dollars; and if any such manufacturer or maker, or his chief workman, agent or superintendent shall make any false or untrue declaration, such manufacturer or maker, or chief workman, agent or superintendent making the same, shall forfeit five hundred dollars. (d)

Ibid. § 110.

Monthly returns to be made.

285. No part of the act aforesaid in relation to stamp duties, shall be held to take effect before the first day of September 1862. And so much of said act as relates to the appointment of collectors and assessors shall be held to take effect on the 21st day of July 1862, instead of from and after its approval by the president.

14 July 1862 § 25.  
12 Stat. 561.

When act to take effect.

286. The commissioner of internal revenue shall be authorized and empowered and hereby is authorized and empowered to furnish and supply the assistant treasurers or

23 Dec. 1862 § 2.  
12 Stat. 631.

(a) See Bout. 344.

(b) See Bout. 377.

(c) See Bout. 306.

(d) This section applies to all dealers, by virtue of the act 3 March 1863 § 27, in/va 292.

25 Dec. 1862.  
Stamps to be furnished to officers in California and Oregon, without payment in advance.

collectors of the United States at San Francisco, state of California, and Portland, state of Oregon, with adhesive stamps, or stamped paper, vellum or parchment, according to the provisions of the internal revenue laws referred to in the preceding section, under such regulations and conditions as he may from time to time prescribe, and without requiring payment in advance therefor, anything in existing laws to the contrary notwithstanding: *Provided*, That no greater commission shall be allowed than is now provided for by law.

*Ibid.* § 3.  
Any stamp of the proper value may be used.

287. No instrument, document, writing or paper of any description, required by law to be stamped, shall be deemed or held invalid and of no effect for the want of the particular kind or description of stamp designated for and denoting the duty charged on any such instrument, document, writing or paper, provided a legal stamp or stamps, denoting a duty of equal amount, shall have been duly affixed and used thereon: (a) *Provided*, That the provisions of this section shall not apply to any stamp appropriated to denote the duty charged on proprietary articles.

*Ibid.* § 4.  
Official documents.

288. All official instruments, documents and papers issued or used by the officers of the United States government shall be and hereby are exempt from duty. (b)

8 March 1863 § 2.  
12 Stat. 718.

Lottery tickets, &c. to be stamped

289. On and after the first day of May 1863, no person or persons, association, firm or corporation, shall make, sell or offer for sale, (c) or dispose of any lottery ticket or fractional part thereof, or any policy of numbers in any lottery, or any token, certificate or device representing or intended to represent the holder, or any other person or persons, as entitled or to be entitled in any lottery, lottery scheme or game of hazard or chance to be drawn to any prize or share or part of a prize, or any sum or part or share of any sum of money, or other article of value, or any fractional part thereof, (d) without affixing thereto an adhesive stamp or stamps denoting the duty imposed by this act, and in default thereof shall incur a penalty of fifty dollars for each and every such offence; and no prize or part of a prize drawn to or by any ticket, or fractional part thereof, token, certificate or device as aforesaid, and no sum of money or thing of value made payable or deliverable upon any stake or investment or risk in or upon any policy of numbers, shall be demanded or recovered by any legal proceedings or otherwise, without the ticket or fractional part thereof, or policy of numbers, token, certificate or device, shall have been duly stamped at the time of the making sale or delivery or disposal thereof: *Provided*, That in addition to all other penalties and forfeitures now imposed by law for the evasion of stamp duties, any person who shall purchase, obtain or receive any lottery ticket, or fractional part thereof, or any token, certificate or device representing or intended to represent a lottery ticket, or fractional part thereof, or any policy of numbers, without first having thereon the stamp imposed by this act, may recover from the person of whom the same was purchased, obtained or received, at any time within three years thereafter, before any court of competent jurisdiction, a sum equal to twice the amount paid for such ticket or fractional part thereof, token, certificate or device, or staked or invested in or upon any policy of numbers as aforesaid, with just and legal costs: *Provided further*, That the stamp duty herein provided for shall be classed in the act to which this act is an amendment under Schedule B.

Penalty.

*Ibid.* § 7.  
Cancellation of stamps.

290. That the commissioner of internal revenue be and he is hereby authorized to prescribe such method for the cancellation of stamps as a substitute for or in addition to the method now prescribed by law, as he may deem expedient and effectual. And he is further authorized in his discretion to make the application of such method imperative upon the manufacturers of proprietary articles, and upon stamps of a nominal value exceeding twenty-five cents each.

*Ibid.* § 16.  
When stamps to be supplied to collectors without prepayment.

291. In any collection district where, in the judgment of the commissioner of internal revenue, the facilities for the procurement and distribution of stamped vellum, parchment or paper, and adhesive stamps, are or shall be insufficient, the commissioner as aforesaid is authorized to furnish, supply and deliver to the collector of any such district a suitable quantity or amount of stamped vellum, parchment or paper, and adhesive stamps, without prepayment therefor, and shall allow the highest rate of commissions to the collector allowed by law to any other parties purchasing the same, and may, in advance, require of any such collector a bond, with sufficient sureties, to an amount equal to the value of any stamped vellum, parchment or paper, and adhesive stamps, which may be placed in his hands and remain unaccounted for, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment, monthly, of all quantities or amounts, sold or not, remaining on hand. And it shall be the duty of such collector to supply his deputies with, or sell to other parties within his district who may make applications therefor, stamped vellum, parchment or paper, and adhesive stamps, upon the same terms allowed by law, or under the

Bond to be given.

Collector to supply deputies.

(a) Several stamps of a smaller denomination may be used.  
Dec. Com. Feb. 1863. Bout. 233.  
(b) See Bout. 233.

(c) The stamp may be affixed at the time of sale. Bout. 386.  
(d) Gift concerts are subject to the rules pertaining to lotteries.  
Bout. 372.

regulations of the commissioner of internal revenue, who is hereby authorized to make such other regulations, not inconsistent herewith, for the security of the United States and the better accommodation of the public in relation to the matters hereinbefore mentioned, as he may judge necessary and expedient: *Provided*, That no instrument, document or paper made, signed or issued prior to the first day of June, Anno Domini 1863, without being duly stamped, or having thereon an adhesive stamp to denote the duty imposed thereon, shall, for that cause, be deemed invalid and of no effect: *And provided*, That no instrument, document, writing or paper, required by law to be stamped, signed or issued, without being duly stamped prior to the day aforesaid, or any copy thereof, shall be admitted or used as evidence in any court until a legal stamp or stamps, denoting the amount of duty charged thereon, shall have been affixed thereto or used thereon, and the initials of the persons using or affixing the same, together with the date when the same is so used or affixed, shall have been placed thereon by such person. And the person desiring to use any such instrument, document, writing or paper as evidence, or his agent or attorney, is authorized in the presence of the court to stamp the same as heretofore provided by law.

3 March 1863.

Unstamped instruments executed prior to 1st June 1863 not to be invalid.

To be stamped before being used in evidence.

How stamped.

292. Any person who shall offer for sale, after the 30th of September 1863, any of the articles named in schedule C of the act to which this act is an amendment, whether the articles so offered are imported or are of foreign or domestic manufacture, shall be deemed the manufacturer thereof, and subject to all the duties, liabilities and penalties in said act imposed in regard to the sale of such articles without the use of the proper stamp or stamps, as in said act is required.

Ibid. § 27.

Who to be deemed manufacturers of patent medicines &c.

293. All medicines, preparations, compositions, perfumery and cosmetics, intended for exportation, as provided for in section 109 of the act to which this act is an amendment, in order to be manufactured and sold or removed, without being charged with duty, and without having a stamp affixed thereto, may, under such rules and regulations as the secretary of the treasury may prescribe, (a) be made and manufactured in warehouses known and designated in treasury regulations as bonded warehouses, class two: *Provided*, Such manufacturer shall first give satisfactory bonds to the collector of internal revenue for the faithful observance of the rules and regulations herein provided for, in amount not less than half required by the regulations of the secretary of the treasury from persons allowed bonded warehouses, class two. Such goods, when manufactured in such warehouses, may be removed for exportation, under the direction of the revenue officer having charge thereof, without being charged with duty, and without having a stamp affixed thereto. Any manufacturer of the articles aforesaid, or of any of them, having such bonded warehouse as aforesaid, shall be at liberty, under such rules and regulations as the secretary of the treasury may prescribe, to convey therein any materials to be used in such manufacture which are allowed by the provisions of the said act to be exported free from tax or duty, as well as the necessary materials, implements, packages, vessels, brands and labels for the preparation, putting up and export of the said manufactured articles, and every article so used shall be exempt from stamp and excise duty. Articles and materials so to be used may be transferred from any bonded warehouse in which the same may be, under such regulations as the secretary of the treasury may prescribe, into any bonded warehouse, class two, in which such manufacture may be conducted, and may be used in such manufacture, and, when so used, shall be exempt from stamp and excise duty; and the receipt of the officer of the revenue in charge shall be received as a voucher for the manufacture of such articles. Any materials imported into the United States may, under such rules as the secretary of the treasury may prescribe, and under the direction of the proper officer of the customs, be removed in original packages from on ship-board, or from the bonded warehouses in which the same may be, into the bonded warehouse, class two, in which such manufacture may be carried on, for the purpose of being used in such manufacture, without payment of duties thereon, and may there be used in such manufacture. No article so removed, nor any article manufactured in said bonded warehouse, class two, shall be taken therefrom except for exportation, under the direction of the proper officer of the customs having charge thereof, whose certificate, describing the articles by their marks, or otherwise, the quantity, the date of importation, the name of vessel, with such additional particulars as may from time to time be required, shall be received by the collector of customs in cancellation of the bonds, or return of the amount of foreign import duties. All labor performed and services rendered under these regulations shall be under the supervision of an officer of the customs, and at the expense of the manufacturer.

Ibid. § 28.

If intended for exportation, may be manufactured in bonded warehouses.

Fonds.

Removal for exportation.

Materials may be removed thither.

Superintendence of labor.

(a) For the regulations established under this act, see Bout. 234.



	<i>Schedule B.(a)</i>	<i>Duty.</i> Dolla. cts.
1 July 1862.		
Agreements.	294. Agreement or contract other than those specified in this schedule; any appraisalment of value or damage, or for any other purpose; for every sheet or piece of paper upon which either of the same shall be written . . . . .	5
Checks, &c.	295. Bank check, draft or order for the payment of any sum of money exceeding twenty dollars, drawn upon any bank, trust company or any person or persons, companies or corporations, at sight or on demand, two cents . . . .	2
Bills of exchange and promissory notes.	296. Any inland bill of exchange, draft or order for the payment of any sum of money exceeding twenty dollars, otherwise than at sight or on demand, and any promissory note shall have a stamp or stamps affixed thereon denoting a duty upon every sum of two hundred dollars or any fractional part thereof, if payable on demand, or at any time not exceeding thirty-three days, including the grace from the date or sight, of one cent . . . . . If payable at any time not less than thirty-three days as aforesaid, and not exceeding sixty-three days, including the grace from date or sight, of two cents . . . . . If payable at any time not less than sixty-three days as aforesaid, and not exceeding ninety-three days, including the grace from date or sight, of three cents . . . . . If payable at any time not less than ninety-three days as aforesaid, and not exceeding four months from date or sight and grace, of four cents . . . . . If payable at any time not less than four months as aforesaid, and not exceeding six months from date or sight, or grace, of six cents . . . . . If payable at any time exceeding six months from date or sight and grace, of ten cents (b) . . . . .	1 2 3 4 6 10
Foreign bills.	Bill of exchange (foreign) or letter of credit, drawn in but payable out of the United States, if drawn singly or otherwise than in a set of three or more, according to the custom of merchants and bankers, shall pay the same rates of duty as inland bills of exchange or promissory notes. If drawn in sets of three or more: For every bill of each set where the sum made payable shall not exceed one hundred and fifty dollars, or the equivalent thereof in any foreign currency in which such bills may be expressed, according to the standard of value fixed by the United States, three cents . . Above one hundred and fifty dollars and not above two hundred and fifty dollars, five cents . . . . . Above two hundred and fifty dollars and not above five hundred dollars, ten cents . . . . . Above five hundred dollars and not above one thousand dollars, fifteen cents . . Above one thousand dollars and not above one thousand five hundred dollars, twenty cents . . . . . Above one thousand five hundred dollars and not above two thousand two hundred and fifty dollars, thirty cents . . . . . Above two thousand two hundred and fifty dollars and not above three thousand five hundred dollars, fifty cents . . . . . Above three thousand five hundred dollars and not above five thousand dollars, seventy cents . . . . . Above five thousand dollars and not above seven thousand five hundred dollars, one dollar . . . . . And for every two thousand five hundred dollars, or part thereof in excess of seven thousand five hundred dollars, thirty cents . . . . .	3 5 10 15 20 30 50 70 1 00 30
Bills of lading.	297. Bill of lading or receipt (other than charter-party) for any goods, merchandise or effects, to be exported from a port or place in the United States to any foreign port or place, ten cents . . . . .	10
Bonds.	298. Bond.—For indemnifying any person who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office, and to account for money received by virtue thereof (c) fifty cents . . . . . Bond of any description other than such as may be required in legal proceedings, and such as are not otherwise charged in this schedule, twenty-five cents . . . . . 299. Certificate of stock in any incorporated company, (d) twenty-five cents . .	50 25 25

(a) See Bout. 303.

(b) So amended by act 3 March 1863, § 6, which also provides that "any memorandum check, receipt or other written or printed evidence of an amount of money to be paid on demand, or at a time designated, shall be considered as a promissory note within

the meaning of that section, and stamped accordingly." 12 Stat. 720.

(c) An administration bond must be stamped. Dec. Com. April 1863. Bout. 271.

(d) See Bout. 260.

	Dols. cts.	1 July 1862.
Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any incorporated company, if for a sum not less than ten dollars and not exceeding fifty dollars, ten cents . . . . .	10	Certificates.
For a sum exceeding fifty dollars, twenty-five cents . . . . .	25	
Certificate.—Any certificate of damage, or otherwise, and all other certificates or documents issued by any port warden, marine surveyor or other person acting as such, twenty-five cents . . . . .	25	
Certificate of deposit of any sum of money in any bank or trust company, or with any banker or person acting as such—		
If for a sum not exceeding one hundred dollars, two cents . . . . .	2	
For a sum exceeding one hundred dollars, five cents . . . . .	5	
Certificate of any other description than those specified, five cents (a) . . . . .	5	
300. Charter-party.—Contract or agreement for the charter of any ship or vessel, or steamer, or any letter, memorandum or other writing between the captain, master or owner, or person acting as agent of any ship or vessel, or steamer, and any other person or persons for or relating to the charter of such ship or vessel or steamer, if the registered tonnage of such ship or vessel or steamer does not exceed one hundred and fifty tons, one dollar . . . . .	1 00	Charter-parties.
Exceeding one hundred and fifty tons and not exceeding three hundred tons (b) . . . . .	3 00	
Exceeding three hundred tons and not exceeding six hundred tons, five dollars . . . . .	5 00	
Exceeding six hundred tons, ten dollars . . . . .	10 00	
301. Contract.—Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate or property of any kind or description issued by brokers or persons acting as such, ten cents . . . . .	10	Contracts.
302. Conveyance.—Deed, instrument or writing, whereby any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed to or vested in the purchaser or purchasers, or any other person or persons by his, her or their direction, when the consideration or value exceeds one hundred dollars and does not exceed five hundred dollars, (c) fifty cents . . . . .	50	Conveyances.
When the consideration exceeds five hundred dollars and does not exceed one thousand dollars, one dollar . . . . .	1 00	
Exceeding one thousand dollars and not exceeding two thousand five hundred dollars, two dollars . . . . .	2 00	
Exceeding two thousand five hundred dollars and not exceeding five thousand dollars, five dollars . . . . .	5 00	
Exceeding five thousand dollars and not exceeding ten thousand dollars, ten dollars . . . . .	10 00	
Exceeding ten thousand dollars and not exceeding twenty thousand dollars, twenty dollars . . . . .	20 00	
And for every additional ten thousand dollars, or fractional part thereof, in excess of twenty thousand dollars, twenty dollars . . . . .	20 00	
303. Dispatch, telegraphic.—Any dispatch or message, (d) the charge for which for the first ten words does not exceed twenty cents, one cent . . . . .	1	Telegraphic dispatches.
When the charge for the first ten words exceeds twenty cents, three cents . . . . .	3	
304. Entry of any goods, wares or merchandise at any custom-house, (e) either for consumption or warehousing, not exceeding one hundred dollars in value, twenty-five cents . . . . .	25	Custom-house entries.
Exceeding one hundred dollars and not exceeding five hundred dollars in value, fifty cents . . . . .	50	
Exceeding five hundred dollars in value, one dollar . . . . .	1 00	
Entry for the withdrawal of any goods or merchandise from bonded warehouse, fifty cents . . . . .	50	
305. Insurance (life).—Policy of insurance, or other instrument by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives (g)—		Policies of insurance.

(a) Act 3 March 1863 § 6. 12 Stat. 720. A stamp is required upon every certificate which has or may have a legal value in a court of law or equity. Certificates, warrants, &c., by one state or county officer upon another need not be stamped. Dec. Com. Oct. 1862. Bout. 233. Every jurat of an affidavit taken before a justice of the peace, notary public, &c., must be stamped as a certificate; but acknowledgments of deeds, &c., are exempt. Dec. Com. 15 June 1863. Bout. 264, 386. See Boynton v. Boynton, 11 Pittsburgh Leg. J. 50.

(b) Act 3 March 1863 § 6. 12 Stat. 721.

(c) The stamps used must answer to the value of the estate conveyed, notwithstanding the consideration may be nominal. If the property be incumbered by mortgage or deed of trust, the stamps must answer to the value of the equity, unless the payment of the mortgage-debt be assumed by the grantor. Dec. Com.

Feb. 1863. Bout. 253.

(d) A dispatch sent from an office without the United States to an office within the United States, is not subject to stamp duty; but if received and repeated to another office, the stamp must be affixed and cancelled by the operator. Dec. Com. Jan. 1863. Bout. 240.

(e) The reciprocity treaty with Great Britain, made the 5th June 1854, does not exempt the entry of goods from the British colonies from the payment of stamp duties under this law. Dec. Com. 5 June 1863. Bout. 278.

(g) The act 3 March 1863, § 3, provides that no stamp duty shall be required upon tickets or contracts of insurance against fatal or non-fatal injuries to persons while travelling by land or water. 12 Stat. 719. See Bout. 235.

3 March 1863.	When the amount insured shall not exceed one thousand dollars, twenty-five cents	Dolls. cts. 25
	Exceeding one thousand and not exceeding five thousand dollars, fifty cents	50
	Exceeding five thousand dollars, one dollar	1 00
	Insurance (marine and inland).—Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed, upon property of any description, whether against perils by the sea or by fire, or other peril of any kind, made by any insurance company or its agents, or by any other company or person, twenty-five cents.(a)	25
	Any policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description, whether against perils by sea or by fire, or other peril of any kind, made by any insurance company or its agents, or by any other company or person in which the premium or assessment shall not exceed ten dollars, ten cents(b)	10
Leases.	306. Lease, agreement, memorandum or contract for the hire, use or rent of any land, tenement or portion thereof—	
	If for a period of time not exceeding three years, fifty cents	50
	If for a period exceeding three years, one dollar	1 00
Manifests.	307. Manifest for custom-house entry or clearance of the cargo of any ship, vessel or steamer for a foreign port—	
	If the registered tonnage of such ship, vessel or steamer does not exceed three hundred tons, one dollar	1 00
	Exceeding three hundred tons, and not exceeding six hundred tons, three dollars	3 00
	Exceeding six hundred tons, five dollars	5 00
Mortgages.	308. Mortgage of lands, estate or property, real or personal, heritable or movable whatsoever, where the same shall be made as a security for the payment of any definite and certain sum of money lent at the time, or previously due and owing or forborne to be paid, being payable; also any conveyance of any lands, estate or property whatsoever, in trust to be sold or otherwise converted into money, which shall be intended only as security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; or any personal bond given as security for the payment of any definite or certain sum of money; shall have a stamp or stamps affixed thereon denoting a duty upon every sum of two hundred dollars, or any fractional part thereof, of ten cents(c)	10
Passage tickets.	309. Passage ticket, by any vessel from a port of the United States to a foreign port, costing thirty dollars or less, fifty cents(d)	50
	Exceeding thirty dollars, one dollar	1 00
Powers of attorney.	310. Power of attorney for the sale or transfer(e) of any stock, bonds or scrip, or for the collection of any dividends or interest thereon, twenty-five cents	25
	Power of attorney for the sale or transfer of any scrip or certificate of profits or memorandum, showing an interest in the profits or accumulations of any corporation or association, if for a sum not exceeding fifty dollars, ten cents(g)	10
	Power of attorney or proxy for voting at any election for officers of any incorporated company or society, except religious, charitable or literary societies, or public cemeteries, ten cents	10
	Power of attorney to receive or collect rent, twenty-five cents	25
	Power of attorney to sell and convey real estate, or to rent or lease the same, or to perform any and all other acts not hereinbefore specified, one dollar	1 00
Probates and letters of administration.	311. Probate of will, or letters of administration: Where the estate and effects for or in respect of which such probate or letters of administration applied for shall be sworn or declared not to exceed the value of two thousand five hundred dollars, fifty cents	50
	To exceed two thousand five hundred dollars and not exceeding five thousand dollars, one dollar	1 00
	To exceed five thousand dollars and not exceeding twenty thousand dollars, two dollars	2 00

(a) An open policy requires but one stamp, when the risks covered are all upon property shipped by, or consigned to, or belonging to, the holder. But every certificate issued by the holder of an open policy must have an appropriate stamp. Dec. Com. Oct. 1862. Bout. 232. Receipts for the annual payments on a life insurance policy are not subject to stamp duty; but if the policy has expired by limitation, or otherwise, a renewal or revival of it must be stamped. A permit by which the terms of a policy are varied is to be stamped as an agreement. Dec. Com. Nov. 1862.

Bout. 235.

(b) Act 3 March 1863 § 6. 12 Stat. 207.

(c) So amended by act 3 March 1863 § 6. 12 Stat. 721.

(d) So amended by act 3 March 1863 § 6. 12 Stat. 720.

(e) Any written authority for the transfer of shares of stock, is regarded as a power of attorney, whatever may be its form, and must be stamped accordingly. Dec. Com. Jan. 1863. Bout. 247.

(g) Act 3 March 1863 § 6. 12 Stat. 720.

To exceed twenty thousand dollars and not exceeding fifty thousand dollars, five dollars	Dolla. cts. 5 00	3 March 1863.
To exceed fifty thousand dollars and not exceeding one hundred thousand dollars, ten dollars	10 00	
Exceeding one hundred thousand dollars and not exceeding one hundred and fifty thousand dollars, twenty dollars	20 00	
And for every additional fifty thousand dollars, or fractional part thereof, ten dollars	10 00	
312. Protest.—Upon the protest of every note, bill of exchange, acceptance, check or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any state or states to make such protest, twenty-five cents	25	Protests.
313. Warehouse receipt for any goods, merchandise or property of any kind held on storage in any public or private warehouse or yard, twenty-five cents	25	Warehouse receipts.
314. Legal documents:		Writs.
Writ, or other original process by which any suit is commenced in any court of record, either law or equity, fifty cents (a)	50	
<i>Provided</i> , That no writ, summons or other process issued by a justice of the peace, or issued in any criminal or other suits commenced by the United States or any state, shall be subject to the payment of stamp duties: <i>And provided further</i> , That the stamp duties imposed by the foregoing schedule B on manifests, bills of lading and passage tickets, shall not apply to steamboats or other vessels plying between ports of the United States and ports in British North America.		
315. Lottery tickets, fractional parts of lottery tickets, policies of numbers in lotteries, tokens, certificates or devices in any form, representing the holder, or any person or persons as entitled or to be entitled, in any lottery, scheme or game of hazard or chance hereafter to be drawn, to any prize or portion of a prize or sum of money or share thereof, or other article of value or any portion or share thereof, when such ticket, fractional part of a ticket, policy of numbers, token, certificate or device, shall not exceed one dollar in the amount risked, or in the retail price thereof, fifty cents	50	3 March 1863 § 2. 12 Stat. 719. Lottery tickets.
When such ticket, fractional part of a ticket, policy, token, certificate or device, shall exceed one dollar in the amount risked, or in the retail price thereof, then for each and every dollar or fractional part thereof, over and above one dollar as before mentioned, an additional fifty cents	50	
<i>Provided, however</i> , That no stamp duty herein provided for shall be construed to authorize any lottery, or the sale of any lottery tickets, tokens or certificates, representing shares or fractional parts of shares therein within any state or territory of the United States in which lotteries or the sale of lottery tickets is or shall be specially prohibited by the laws thereof, or in violation of the laws of any state or territory; and nothing in this act shall be held or construed so as to prevent the several states within the limits thereof from placing a duty, tax or license, for state purposes, on any sale of lottery tickets on which a duty is required to be paid by this act.		
316. On any bill of sale by which any ship or vessel or any part thereof shall be conveyed to or vested in any other person or persons when the consideration shall not exceed five hundred dollars, there shall be affixed a stamp or stamps denoting a duty of twenty-five cents	25	Ibid. § 6. Bills of sale.
If the consideration exceeds five hundred and does not exceed one thousand dollars, the duty shall be fifty cents	50	
If the consideration exceeds one thousand dollars for each and every additional amount of one thousand dollars, or any fractional part thereof in excess of one thousand dollars, the duty in addition shall be fifty cents	50	
317. On each and every assignment or transfer of a mortgage, lease or policy of insurance, a stamp duty shall be paid equal to that imposed on the original instrument.		Assignments.
318. Any power of attorney, conveyance or document of any kind made, or purporting to be made in any foreign country, to be used in the United States, shall pay the same duty as is required by law on similar instruments or documents when made or issued in the United States; and the party to whom the same is issued or by whom it is to be used, shall, before using the same, affix thereon the stamp or stamps indicating the duty required.		Instruments executed abroad.
319. No conveyance, deed, mortgage or writing, whereby any lands, tenements, realty or other property shall be sold, granted, assigned or otherwise conveyed, or shall		Limitation of stamp duty on conveyances, &c.

(a) See *Walton v. Bryneth*, 20 Leg. Int. 54. Bont. 339, 349, 353.

8 March 1863.

be made as security for the payment of any sum of money, shall be required to pay a stamp duty of more than the sum of one thousand dollars, anything to the contrary notwithstanding.

What instruments to be exempt from stamp duty.

320. No stamp duty shall be required on powers of attorney, or any other paper relating to applications for bounties, arrearages of pay or pensions, or to the receipt thereof from time to time; (a) or indemnity awarded for depredations and injuries by certain bands of Sioux Indians; nor on any warrant of attorney accompanying a bond or note, when such bond or note shall have affixed thereto the stamp or stamps denoting the duty required; and whenever any bond or note shall be secured by a mortgage but one stamp duty shall be required to be placed on such papers: *Provided*, That the stamp duty placed thereon is the highest rate required for said instruments, or either of them; nor on certificates of the measurement or weight of animals, wood, coal or other articles; nor on deposit notes to mutual insurance companies for insurance upon which policies subject to stamp duties have been or are to be issued; nor on any certificate of the record of a deed or other instrument in writing, or of the acknowledgment or proof thereof by attesting witnesses.

## Schedule C.

1 July 1862 § 110.  
12 Stat. 484.

Patent medicines

321. Medicines or preparations.—For and upon every packet, box, bottle, pot, phial or other enclosure, containing any pills, powders, tinctures, troches or lozenges, syrups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils or other preparations or compositions whatsoever, made and sold, or removed for consumption and sale, by any person or persons whatever, wherein the person making or preparing the same has, or claims to have, any private formula or occult secret or art for the making or preparing the same, or has, or claims to have, any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended or exposed for sale under any letters patent, or held out or recommended to the public by the makers, venders or proprietors thereof as proprietary medicines, or as remedies or specifics for any disease, diseases or affections whatever affecting the human or animal body, as follows: (b) where such packet, box, bottle, pot, phial or other enclosure, with its contents, shall not exceed, at the retail price or value, the sum of twenty-five cents, one cent

Where such packet, box, bottle, pot, phial or other enclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and not exceed the retail price or value of fifty cents, two cents

Where such packet, box, bottle, pot, phial or other enclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents

When such packet, box, bottle, pot, phial or other enclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents

When such packet, box, bottle, pot, phial or other enclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above one dollar, as before mentioned, an additional two cents

Perfumery and cosmetics.

322. Perfumery and cosmetics.—For and upon every packet, box, bottle, pot,

(a) This only exempts those applications which are made in pursuance of law, on behalf of the special classes of discharged, disabled or deceased officers, soldiers, sailors or marines entitled thereto. Dec. Com. May 1863. Bont. 271.

(b) See *supra* 281. The intention of the act is to subject to stamp duty every kind of preparation, no matter of what composed, made and sold as medicine, and claimed by the maker or vender to be proprietary, or recommended as possessing peculiar virtues imparted in the manufacture by the secret art or occult formulas of the manufacturer; and it is to exempt from duty all medicines known in trade or compounded according to some published formula, or any medical treatise recognised by the profession of medical science, and not offered for sale under any guise or pretence of proprietorship. Dec. Com. June 1863. Bont. 277.

The articles or commodities made subject to stamp duty are distributed into four classes, as follows:

1st. Any preparation or composition whatsoever wherein the person making or preparing the same has, or claims to have, any private formula or occult secret or art for the making or preparing the same.

2d. Any preparation or composition whatsoever wherein the person making or preparing the same has, or claims to have, any exclusive right or title to the making or preparing the same.

3d. Any preparation or composition whatsoever which is prepared, uttered, vended, or exposed for sale under any letters patent.

4th. Any preparation or composition whatsoever which is held out or recommended to the public by the makers, venders, or proprietors thereof, as a proprietary medicine, or as a remedy or specific for any disease, diseases, or affections whatever affecting the human or animal body.

The descriptions contained in these four classes embrace four distinct classes of commodities, and the first three are by no means to be treated as a mere limitation upon the fourth. The fourth class is limited and qualified by the proviso in section 107. The mere fact of the publication of a formula in one of the text-books or journals specified in that section, will not exempt a preparation, compounded according to such formula, from stamp duty, when the fact of such publication is ignored, and the claim to a private formula or occult secret or art is distinctly set forth upon the labels and wrappers accompanying the preparation, as is usually the case with such preparations as Godfrey's Cordial, Berton's British Oil, Turlington's Balsam of Life, Lee's Bilious Pills, &c.

All articles belonging to either of the first three classes, such as tints, blackings, cements, sauces, flavoring extracts, polishes, culinary preparations, or compositions of any nature whatsoever which purport to have been prepared under any private formula or occult secret or art, or in the making of which the maker claims any exclusive right or title, or which are prepared under any letters patent, are as fully subject to the stamp duty as those in the fourth class. Dec. Com. Oct. 1863. No. 128.

Duty.  
Dolla. cts

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phial or other enclosure, containing any essence, extract, toilet water, cosmetic, hair oil, pomade, hairdressing, hair restorative, hair dye, toothwash, dentifrice, tooth paste, aromatic cachous or any similar articles, by whatever name the same heretofore have been, now are or may hereafter be called, known or distinguished, used or applied, or to be used or applied as perfumes or applications to the hair, mouth or skin, made, prepared and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, phial or other enclosure, with its contents, shall not exceed at the retail price or value the sum of twenty-five cents, one cent . . . . .	1	Dolls. cts.	1 July 1862.
Where such packet, box, bottle, pot, phial or other enclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and shall not exceed the retail price or value of fifty cents, two cents . . . . .	2		
Where such packet, box, bottle, pot, phial or other enclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents . . . . .	3		
Where such packet, box, bottle, pot, phial or other enclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents . . . . .	4		
Where such packet, box, bottle, pot, phial or other enclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents . . . . .	2		
323. Playing cards.—For and upon every pack of whatever number, when the price per pack does not exceed eighteen cents, one cent . . . . .	1	Playing cards.	
Over eighteen cents and not exceeding twenty-five cents per pack, two cents . . . . .	2		
Over twenty-five and not exceeding thirty cents per pack, three cents . . . . .	3		
Over thirty and not exceeding thirty-six cents per pack, four cents . . . . .	4		
Over thirty-six cents per pack, five cents . . . . .	5		

## XVI. LEGACY DUTIES.

324. Any person or persons having in charge or trust, as administrators, executors or trustees of any legacies or distributive shares arising from personal property, of any kind whatsoever, where the whole amount of such personal property as aforesaid shall exceed the sum of one thousand dollars in actual value, passing from any person who may die after the passage of this act (a) possessed of such property, either by will or by the intestate laws of any state or territory, or any part of such property or interest therein, transferred by deed, grant, bargain, sale or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or bargainor, to any person or persons, or to any body or bodies politic or corporate, in trust or otherwise, shall be and hereby are made subject to a duty or tax, to be paid to the United States, as follows, that is to say:

I. Where the person or persons entitled to any beneficial interest in such property shall be the lineal issue or lineal ancestor, brother or sister, to the person who died possessed of such property as aforesaid, at and after the rate of seventy-five cents for each and every hundred dollars of the clear value of such interest in such property. Rates of duty.

II. Where the person or persons entitled to any beneficial interest in such property shall be a descendant of a brother or sister of the person who died possessed as aforesaid, at and after the rate of one dollar and fifty cents for each and every hundred dollars of the clear value of such interest.

III. Where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the person who died possessed as aforesaid, at and after the rate of three dollars for each and every hundred dollars of the clear value of such interest.

IV. Where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the person who died possessed as aforesaid, at and after the rate of four dollars for each and every hundred dollars of the clear value of such interest.

V. Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died possessed as aforesaid, or shall be a body politic or corporate, at and after the rate of five dollars for each and every hundred dollars of the clear value of such interest: *Provided*, That all legacies or property

(a) The act postponing the operation of the law, does not apply to this section. See Bout. 200-5.

1 July 1862.

Ibid. § 112.

Legacy duty to be a lien.

To be paid by executors, &amp;c.

Account to be rendered.

Penalty for neglect.

Proceeding where there is no administration.

Tax deeds.

passing by will, or by the laws of any state or territory, to husband or wife of the person who died possessed as aforesaid, shall be exempt from tax or duty. (a)

325. The tax or duty aforesaid shall be a lien and charge upon the property of every person who may die as aforesaid, until the same shall be fully paid to and discharged by the United States; and every executor, administrator or other person who may take the burden or trust of administration upon such property (b) shall, after taking such burden or trust, and before paying and distributing any portion thereof to the legatees or any parties entitled to beneficial interest therein, pay to the collector or deputy collector of the district of which the deceased person was a resident, (c) the amount of the duty or tax as aforesaid, and shall also make and render to the assistant assessor of the district, of which the deceased person was a resident, (c) a schedule, list or statement of the amount of such property, together with the amount of duty which has accrued or should accrue thereon, verified by his oath or affirmation, to be administered and certified thereon by some magistrate or officer having lawful power to administer such oaths, in such form and manner as may be prescribed by the commissioner of internal revenue, which schedule, list or statement shall contain the names of each and every person entitled to any beneficial interest therein, together with the clear value of such interest, which schedule, list or statement shall be by him delivered to such collector; and upon such payment and delivery of such schedule, list or statement, said collector or deputy collector shall grant to such person paying such duty or tax a receipt or receipts for the same in duplicate, which shall be prepared as is hereinafter provided; such receipt or receipts, duly signed and delivered by such collector or deputy collector, shall be sufficient evidence to entitle the person who paid such duty or tax as having taken the burden or trust of administering such property or personal estate to be allowed for such payment by the person or persons entitled to the beneficial interest in respect to which such tax or duty was paid; and such person administering such property or personal estate shall be credited and allowed such payment by every tribunal which, by the laws of any state or territory, is or may be empowered to decide upon and settle the accounts of executors and administrators; and in case such person who has taken the burden or trust of administering upon any such property or personal estate shall refuse or neglect to pay the aforesaid duty or tax to the collector or deputy collector as aforesaid, within the time hereinbefore provided, or shall neglect or refuse to deliver to said collector or deputy collector the schedule, list or statement of such legacies, property or personal estate under oath as aforesaid, or shall deliver to said collector or deputy collector a false schedule or statement of such legacies, property or personal estate, or give the names and relationship of the persons entitled to beneficial interests therein untruly, or shall not truly and correctly set forth and state therein the clear value of such beneficial interest, or where no administration upon such property or personal estate shall have been granted or allowed under existing laws, the proper officer of the United States shall commence such proceedings in law or equity before any court of the United States as may be proper and necessary to enforce and realize the lien or charge upon such property or personal estate, or any part thereof, for which such tax or duty has not been truly and justly paid. Under such proceedings the rate of duty or tax enforced shall be the highest rate imposed or assessed by this act, and shall be in the name of the United States against such person or persons as may have the actual or constructive custody or possession of such property or personal estate, or any part thereof, and shall subject such property or personal estate, or any portion of the same, to be sold upon the judgment or decree of such court, and from the proceeds of such sale the amount of such tax or duty, together with all costs and expenses of every description to be allowed by such court, shall be first paid, and the balance, if any, deposited according to the order of such court, to be paid under its direction to such person or persons as shall establish their lawful title to the same. The deed or deeds, or any proper conveyance of such property or personal estate, or any portion thereof, so sold under such judgment or decree, executed by the officer lawfully charged with carrying the same into effect, shall vest in the purchaser thereof all the title of the delinquent

(a) See Bout. 208-4, as to the assessment of the tax on a legacy payable on a future contingency. Where a testator directs his executors to lay out money in the purchase of land for the use of certain devisees, the direction is a conversion of the personal into real estate from the death of the testator, and the money directed to be so appropriated is not subject to the legacy duty under the act of congress. Where the will gives to the executors general authority to sell real estate, either to pay debts or for the purpose of distribution, the land is converted into money at the time of the death of the testator, and is subject to the provisions of the excise law. Where the testator authorizes land to be sold and the money to be paid for certain purposes, and the legatees elect to take their legacies in land, and thus avoid the necessity of a sale, their election does not prevent the conversion, nor prevent the estate from being subject to the legacy tax. When the testator appoints the time when the conversion of real estate

into personal shall take effect, his intention will control the generality of the rule as to the time of the conversion, and postpone the conversion to the period appointed. But no delay on the part of an executor or trustee, in the performance of his duty to sell, nor exercise of his discretion, in the execution of his powers, with a view to a better market, or for the convenience of the estate, will postpone the conversion. Dec. Com. July 1863. Bout. 282.

(b) When, on the death of any person leaving personal property, the care and management of such property is assumed by another person without the issue of letters authorizing administration, the person thus assuming the care and management must be considered the administrator *de son tort*, and should be required to pay the legacy tax, and any other taxes for which the estate may be liable. Dec. Com. July 1863. Bout. 283.

(c) Act 3 March 1863. 12 Stat. 718.

to the property or personal estate sold under and by virtue of such judgment or decree, and shall release every other portion of such property or personal estate from the lien or charge thereon created by this act. And every person or persons who shall have in his possession, charge or custody any record, file or paper, containing or supposed to contain any information concerning such property or personal estate as aforesaid, passing from any person who may die as aforesaid, shall exhibit the same at the request of the collector of the revenue, his deputy or agent, and to any law officer of the United States, in the performance of his duty under this act, his deputy or agent, who may desire to examine the same; and if any such person, having in his possession, charge or custody any such records, files or papers, shall refuse or neglect to exhibit the same on request as aforesaid, he shall forfeit and pay the sum of five hundred dollars; and in case of any delinquency in making the schedule, list or statement, or in the payment of the duty or tax accruing, or which should accrue thereon, the assessment and collection shall be made as provided for in the general provisions of this act: *Provided*, In all legal controversies where such deed or title shall be the subject of judicial investigation the recital in said deed shall be presumed to be true, and that the requirements of the law had been complied with by the officers of the government.

1 July 1862.

Papers to be exhibited.

Penalty for refusal.

Effect of recitals in deeds.

## XVII. ALLOWANCE AND DRAWBACK.

326. From and after the date on which this act takes effect, there shall be an allowance or drawback on all articles on which any internal duty or tax shall have been paid, except raw or unmanufactured cotton, equal in amount to the duty or tax paid thereon, and no more when exported, the evidence that any such duty or tax has been paid to be furnished to the satisfaction of the commissioner of internal revenue, by such person or persons as shall claim the allowance or drawback, and the amount to be ascertained under such regulations as shall, from time to time, be prescribed by the commissioner of internal revenue, (a) under the direction of the secretary of the treasury, and the same shall be paid by the warrant of the secretary of the treasury on the treasurer of the United States, out of any money arising from internal duties not otherwise appropriated: *Provided*, That no allowance or drawback shall be made or had for any amount claimed or due less than twenty dollars, anything in this act to the contrary notwithstanding: *And provided further*, That any certificate of drawback for goods exported, issued in pursuance of the provisions of this act, may, under such regulations as may be prescribed by the secretary of the treasury, be received by the collector or his deputy in payment of duties under this act. And the secretary of the treasury may make such regulations with regard to the form of said certificates and the issuing thereof as, in his judgment, may be necessary: *And provided further*, That in computing the allowance or drawback upon articles manufactured exclusively of cotton when exported, there shall be allowed, in addition to the three per centum duty which shall have been paid on such articles, a drawback of five mills per pound upon such articles, in all cases where the duty imposed by this act upon the cotton used in the manufacture thereof has been previously paid; the amount of said allowance to be ascertained in such manner as may be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury.

1 July 1862 § 116.  
12 Stat. 488.

Amount of drawback to be allowed.

Certificates to be received in payment of duties.

Further allowance.

327. If any person or persons shall fraudulently claim or seek to obtain an allowance or drawback on goods, wares or merchandise, on which no internal duty shall have been paid, or shall fraudulently claim any greater allowance or drawback than the duty actually paid as aforesaid, such person or persons shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of five hundred dollars, at the election of the secretary of the treasury, to be recovered as in other cases of forfeiture provided for in the general provisions of this act.

Ibid. § 117.

Penalty for fraudulent attempt to obtain drawback.

328. The evidence of exportation to entitle to benefit of drawback under the act to provide internal revenue to which this act is an amendment, and the rules and regulations pertaining thereto, shall be the same as those which are now or may be required to entitle the exporter to benefit of drawback under the acts relating to drawbacks of duties on imports, with such other rules and regulations as the secretary of the treasury may prescribe; that the bureau in charge of exports for the benefit of drawback under the acts as aforesaid at the port of New York (and at such other ports as the secretary of the treasury may designate), shall have charge of the same under the act to which this act is an amendment; that the head of such bureau shall be invested with the authority and receive the emoluments of a deputy of the collector of customs; and that the said bureau shall, under the direction of the collector of the customs, embrace the supervision of all exports entitled to remission of duties, or to drawback of duties paid, under the acts above mentioned; the ascertaining and certifying such duties; the taking

3 March 1863 § 35.  
12 Stat. 730.

What evidence to entitle to drawback.

Bureaus created.

Their duties.

(a) See Bout. 207, for the regulations established by the commissioner.



3 March 1863.

and cancellation of required bonds; the charge of all export entry papers for benefit of drawback and officers' returns thereon, and of certificates in proof of the landing of such exports abroad: *Provided*, That nothing herein contained shall be construed to change or modify the existing mode of paying the drawbacks and debentures allowed by the laws before referred to.

Ibid. § 38.

Drawback on manufactured cordials, &c.

329. There shall be an allowance or drawback on cordials and other liquors manufactured wholly or in part of domestic spirits on which a duty shall have been paid equal in amount to the duty paid on such spirits when exported, with such deduction as the secretary of the treasury may think reasonable, not exceeding five per centum of the amount of duty so paid; the amount to be ascertained in the manner and under the regulations prescribed in section 116 of the act to which this is additional, and the same to be subject to all the provisions of said section applicable thereto: *Provided*, That such allowance shall be made unless the value of the spirits used in such manufacture shall exceed one-half of the whole value of the article manufactured as aforesaid.

## Tennessee.

### 1. Terms of courts in West Tennessee.

#### I. CIRCUIT AND DISTRICT COURTS.

11 July 1862 § 1.  
12 Stat. 537.

Terms of courts in West Tennessee.

1. Hereafter the circuit and district courts of the United States for the district of West Tennessee shall be holden on the first Mondays in April and October, in the town of Huntingdon, in the county of Carroll, in said district, instead of the town of Jackson, the place heretofore fixed by law. And all process, civil and criminal, which may have been, or hereafter may be, issued, returnable to said courts at Jackson, shall be returned to said courts at Huntingdon; and all books and records of every kind, pertaining to said courts, shall be transferred from said town of Jackson to said town of Huntingdon.

## Territories.

### I. TERRITORIAL COURTS.

1. Appeals from territorial courts may be prosecuted, notwithstanding admission as a state. To whom mandate to be directed.  
2. Where territorial courts may be held. Expenses.

### II. MISCELLANEOUS PROVISIONS.

3. Slavery abolished.  
4. Punishment of bigamy. Who to be excused from the penalties of bigamy.  
5. What real estate may be held by religious corporations.

#### I. TERRITORIAL COURTS.

12 June 1858 § 18.  
11 Stat. 323.

Appeals from territorial courts may be prosecuted, notwithstanding admission as a state. To whom mandate to be directed.

14 June 1858 § 1.  
11 Stat. 366.

Where territorial courts may be held.  
Expenses.

1. In all cases of judgments and decrees, in any territorial court of the United States, now rendered, or hereafter to be rendered, and from which there might be a writ of error, or appeal to the supreme court of the United States, there may be presented such writ of error or appeal within the time and under the other restrictions limited by law, to said supreme court, notwithstanding such territory may, after such judgments and decrees, have been admitted into the Union as a state; and said supreme court shall, when the same is decided, direct the mandate to such court as the nature of the writ of error or appeal, in their judgment may require.

2. The judges of the supreme court of each territory of the United States are hereby authorized to hold court within their respective districts, in the counties wherein, by the laws of said territories, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party: *Provided*, That the expenses thereof shall be paid by the territory, or by the counties in which said courts may be held, and the United States shall in no case be chargeable therewith.

#### II. MISCELLANEOUS PROVISIONS.

19 June 1862 § 1.  
12 Stat. 432.

Slavery abolished.

1 July 1862 § 1.  
12 Stat. 501.

3. From and after the passage of this act, there shall be neither slavery nor involuntary servitude, in any of the territories of the United States now existing, or which may at any time hereafter be formed or acquired by the United States, otherwise than in punishment of crimes whereof the party shall have been duly convicted.(a)

4. Every person having a husband or wife living, who shall marry any other person, whether married or single, in a territory of the United States, or other place over which

(a) See 23 Law Rep. 321, 449.

the United States have exclusive jurisdiction, shall, except in the cases specified in the proviso to this section, be adjudged guilty of bigamy, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, and by imprisonment for a term not exceeding five years: *Provided, nevertheless*, That this section shall not extend to any person, by reason of any former marriage, whose husband or wife by such marriage shall have been absent for five successive years, without being known to such person within that time to be living; nor to any person by reason of any former marriage which shall have been dissolved by the decree of a competent court; nor to any person by reason of any former marriage which shall have been annulled or pronounced void by the sentence or decree of a competent court, on the ground of the nullity of the marriage contract.

1 July 1862.

Punishment of bigamy.

Who to be excused from the penalties of bigamy.

5. It shall not be lawful for any corporation or association for religious or charitable purposes to acquire or hold real estate in any territory of the United States, during the existence of the territorial government, of a greater value than fifty thousand dollars; and all real estate acquired or held by any such corporation or association contrary to the provisions of this act shall be forfeited and escheat to the United States: *Provided*, That existing vested rights in real estate shall not be impaired by the provisions of this section.

Ibid. § 3.

What real estate may be held by religious corporations.

## Texas.

### I. DISTRICT COURTS.

1. Term of the district court at Tyler, changed.

### II. COLLECTION DISTRICTS.

2. District of Brownsville.

3. Collector's office.

4. Deputy at Brazos de Santiago.

5. Transhipment of goods imported via Brazos.

6. Deputy collector at Corpus Christi.

### I. DISTRICT COURTS.

1. That from and after the passage of this act, the term of the district court of the United States for the western district of the state of Texas, held at Tyler, in said district, on the first Monday in March of each year, be and the same is hereby changed to the fourth Monday in April of each year.

11 June 1858 § 1  
11 Stat. 314.

Term at Tyler changed.

### II. COLLECTION DISTRICTS.

2. That the custom-house of said district be and the same is hereby changed from Point Isabel to Brownsville; that the port of entry heretofore existing at Point Isabel aforesaid be and the same is hereby abolished; and that Brownsville aforesaid be and the same is hereby created a port of entry for said district.

16 June 1860 § 1.  
12 Stat. 39.

District of Brownsville.

3. The collector of said district shall henceforth keep his office at Brownsville aforesaid, and the same shall be removed, under such instructions as the secretary of the treasury shall prescribe.

Ibid. § 2.

Collector's office.

4. A deputy collector of customs shall reside and keep his office at Brazos de Santiago aforesaid, who shall be and he is hereby authorized to enter and clear vessels.

Ibid. § 3.

Deputy at Brazos de Santiago.

Ibid. § 4.

Transhipment of goods imported via Brazos.

5. All goods, wares and merchandise of whatever description, transported in bond to the port of entry hereby created, from any other port or place in the United States, via Brazos Harbor, may, on their arrival in said harbor, be transhipped, under such regulations, not inconsistent with law, as the secretary of the treasury may prescribe, in other vessels for transportation, via the Rio Grande, to Brownsville aforesaid; and any goods, wares or merchandise, of any description whatever, imported into said district, via said harbor, from any foreign country, may in like manner be transhipped to said port of entry, as herein provided for goods, wares and merchandise transhipped in bond.

6. That the surveyor of customs of the port of Corpus Christi, in the district of Saluria, in the state of Texas, be and the same is hereby discontinued, and a deputy collector shall be appointed, according to law, for the said port of Corpus Christi, with the same powers as the deputy collectors at Aransas and Sabine, within said state, as provided in sections third and fourth of the act of which this is the amendment. The compensation of the deputy collector at Corpus Christi shall be at the rate of five hundred dollars per annum, and the fees prescribed by law, not to exceed, in the aggregate, in any one year, the sum of fifteen hundred dollars.

16 June 1860 § 1.  
12 Stat. 43.

Deputy collector at Corpus Christi.

## Timber.

### 1. Penalty for cutting timber on military reservations.

8 March 1859 § 1.  
11 Stat. 408.

Penalty for cutting timber on military reservations.

1. If any person or persons shall unlawfully cut, or aid, assist or be employed in unlawfully cutting, or shall wantonly destroy, or procure to be wantonly destroyed, any timber standing, growing or being upon any lands of the United States, which in pursuance of any law passed, or hereafter to be passed, have been, or shall be, reserved or purchased by the United States, for military or other purposes; every such person or persons so offending, on conviction thereof before a court having competent jurisdiction, shall, for every such offence, pay a fine not exceeding five hundred dollars, and shall be imprisoned not exceeding twelve months.

## Treasury Department.

1. Additional clerks to assistant treasurer in New York. Compensation.
2. Deputy assistant treasurer in New York. His powers and duties. Salary.
3. Clerks to assistant treasurer in Boston. Salaries.
4. When chief clerk to act as assistant treasurer.
5. Clerks to assistant treasurer at St. Louis.
6. Payment of salaries to unauthorized officers forbidden.
7. Assistant register to be appointed.

8. His duties.
9. Chief clerk to assistant treasurer in Philadelphia.
10. When to act as assistant treasurer.
11. Duties of clerks.
12. Power of secretary to compromise claims.
13. Assistant treasurer of the United States.
14. Cashier and other officers.
15. Salary of treasurer.
16. Annual estimates.

6 March 1862 § 1.  
12 Stat. 353.

Additional clerks &c. to assistant treasurer in New York.

Compensation.

*Ibid.* § 2.

Deputy assistant treasurer at New York.

His powers and duties.

Salary.

19 March 1862 § 1.  
12 Stat. 373.

Clerks to assistant treasurer at Boston.

Salaries.

*Ibid.* § 2.

When chief clerk to act as assistant treasurer.

20 May 1862 § 2.  
12 Stat. 394.

Clerks to assistant treasurer at St. Louis.

9 Feb. 1863 § 2.  
12 Stat. 646.

1. That the assistant treasurer of the United States at New York be and he hereby is authorized to appoint, from time to time, by and with the consent and approbation of the secretary of the treasury, such other clerks, messengers and watchmen, in addition to those already employed by him, as the exigencies of the public business may require, at rates of compensation to be fixed by the secretary of the treasury: *Provided*, That such rates shall in no case exceed those now allowed by law for the several persons similarly employed in the office of the said assistant treasurer. \* \* Estimates for compensation for such additional clerks, messengers and watchmen, after the next fiscal year, shall be submitted by the secretary of the treasury with his annual estimates.

2. That the said assistant treasurer of the United States at New York be and he hereby is further authorized to appoint, with the approbation of the secretary of the treasury, a competent person from among his clerks who shall be called the deputy assistant treasurer of the United States. The said deputy assistant treasurer, in addition to the duties performed by him, and any others which he may be required to perform by the said assistant treasurer, is hereby authorized to witness the execution of any and all transfers of government stock and powers of attorney, and sign all receipts for patent fees and bullion receipts, with like effect as if the same were witnessed and signed, respectively, by the said assistant treasurer in person. The said deputy assistant treasurer shall receive an additional compensation of one thousand dollars per annum, to be paid out of any money in the treasury not otherwise appropriated: *Provided*, That the total compensation received by him shall not exceed three thousand dollars per annum.

3. From and after the first day of January 1862, in lieu of the clerks heretofore authorized and provided, the assistant treasurer at Boston be and he is hereby authorized to appoint, with the approbation of the secretary of the treasury, one chief clerk at a salary of fifteen hundred dollars per annum, and one disbursing clerk at a salary of fifteen hundred dollars per annum, and one other clerk at a salary of twelve hundred dollars per annum, and one messenger at a salary of seven hundred dollars per annum.

4. In case of the sickness or unavoidable absence of the assistant treasurer, he may, in his discretion, authorize the chief clerk to act in his place, and to discharge all the duties required by law of the assistant treasurer.

5. There shall be employed in the office of the assistant treasurer at St. Louis a chief clerk and teller with an annual salary of eighteen hundred dollars, and one assistant clerk with an annual salary of twelve hundred dollars: \* \* *Provided*, That the clerks hereby authorized are to be in the place of all other clerical force now authorized by law for said office.

6. No money shall be paid from the treasury of the United States to any person acting or assuming to act as an officer, civil, military or naval, as salary in any office,

which office is not authorized by some previously existing law, unless where such office shall be subsequently sanctioned by law; nor shall any money be paid out of the treasury, as salary, to any person appointed during the recess of the senate, to fill a vacancy in any existing office, which vacancy existed while the senate was in session, and is by law required to be filled by and with the advice and consent of the senate, until such appointee shall have been confirmed by the senate.

9 February 1863.

Payment of salaries to unauthorized officers forbidden.

7. That the president be and he is hereby authorized to appoint, by and with the advice and consent of the senate, for the term of one year, an officer in the office of the register of the treasury, to be called the assistant register, at an annual salary of two thousand dollars.

20 Feb. 1863 § 1.  
12 Stat. 656.

Assistant register to be appointed.

8. The duties of said assistant shall be such as may be devolved on him by the register of the treasury, and in the absence of the register, said assistant shall act in his place and stead; and any official record, certificate or other document, excepting warrants, bonds and drafts, if signed by the assistant register, shall have the same legal force and validity as if signed by the register of the treasury.

Ibid. § 2.

His duties.

9. The treasurer of the mint of the United States, by virtue of that office assistant treasurer of the United States at Philadelphia, is authorized to designate from among the clerks in his said offices respectively, one to act as chief clerk to the treasurer of the mint, and one other to act as chief clerk to the assistant treasurer of the United States.

3 March 1863 § 12.  
12 Stat. 752.

Chief clerk to assistant treasurer in Philadelphia.

10. In case of the sickness or unavoidable absence of the treasurer of the mint, he may, in his discretion, authorize the respective chief clerks to act in his place, and to discharge all the duties required by law of the treasurer of the mint or assistant treasurer of the United States at Philadelphia.

Ibid. § 13.

When to act as assistant treasurer.

11. The chief and other clerks in the treasury department of the mint shall give such assistance in the assistant treasury of the United States at Philadelphia, in the receipt, custody and disbursement of the public money, as may be required of them by the treasurer, with the same responsibility for the faithful performance of such duty as is imposed upon them by the laws in force for the government of the mint and the officers and clerks thereof.

Ibid. § 14.

Duties of clerks.

12. Upon a report by a district attorney, or any special attorney or agent having charge of any claim in favor of the United States, showing in detail the condition of such claim, and the terms upon which the same may be compromised, and recommending that the same be compromised upon the terms so offered, and upon the recommendation of the solicitor of the treasury, the secretary of the treasury be and he is hereby authorized to compromise such claim accordingly.

3 March 1863 § 10.  
12 Stat. 740.

Power of secretary to compromise claims.

13. That the president of the United States be and he is hereby authorized to appoint, from time to time, by and with the consent and approval of the senate of the United States, an assistant treasurer of the United States; and the treasurer of the United States may, in his discretion, with the consent of the secretary of the treasury of the United States, authorize the said assistant to act in the place and stead, and at any and at all times to discharge any or all the duties required by law of the said treasurer of the United States.

3 March 1863 § 1.  
12 Stat. 761.

Assistant treasurer of the United States.

14. That the secretary of the treasury of the United States be and is hereby authorized to appoint, in addition to the clerks now authorized by law, a cashier, with an annual salary of two thousand four hundred dollars per annum; an assistant cashier, with an annual salary of two thousand dollars per annum; four chiefs of divisions, with annual salaries of one thousand eight hundred dollars each per annum; and also a messenger, an assistant messenger and two laborers, in addition to those now allowed, at the compensation now authorized by law.

Ibid. § 2.

Cashier and other officers.

15. There shall be paid to the treasurer of the United States, in lieu and stead of his present compensation, commencing with and including the first day of July 1862, the sum of five thousand dollars per annum; but from which amount there shall be deducted all sums of money heretofore paid to or received by the said treasurer, on account of his compensation for services rendered as treasurer of the United States, since and including the day aforesaid, and the income tax on such additional compensation as will have accrued since the first day of September 1862. And there shall be paid to the assistant treasurer of the United States an annual compensation of twenty-five hundred dollars.

Ibid. § 3.

Salary of treasurer.

And assistant treasurer.

16. The compensation of the treasurer, deputy treasurer, clerks and messengers aforesaid, for the current and next fiscal years, shall be paid out of any money in the treasury not otherwise appropriated. Estimates for all such compensations, after the next fiscal year, shall be submitted by the secretary of the treasury with his annual estimates.

Ibid. § 4.

Annual estimates

## Vermont.

### 1. Spring terms of the circuit and district courts.

#### I. CIRCUIT AND DISTRICT COURTS.

4 May 1858 § 1.  
11 Stat. 272.

Spring terms of  
the circuit and  
district courts.

1. The circuit court of the United States now directed to be holden at Windsor, in and for the district of Vermont, on the twenty-first day of May, shall, after the first day of July next, be holden on the fourth Tuesday of July annually at said place; and the district court of the United States, within and for said district, instead of the twenty-seventh day of May, shall, after the first day of July next, be holden on the Monday next after the fourth Tuesday in July annually.

## Virginia.

### 1. Deputy collector to be appointed at Chincoteague Island.

#### I. COLLECTION DISTRICTS.

11 July 1862 § 1.  
12 Stat. 537.

Deputy collector  
at Chincoteague  
Island.

1. That the secretary of the treasury be and he is hereby authorized to appoint, according to law, a deputy collector of customs to reside on Chincoteague Island, in the state of Virginia, and to exercise such powers, under the revenue laws, as he the secretary of the treasury may prescribe; the compensation of the said deputy collector to be the legal fees on the business he may transact, and no more.

## War Department.

1. Assistant secretary. Salary.
2. Additional assistant secretaries.
3. Transportation of troops to be under the control of the secretary.

4. Additional clerks, &c.
5. Settlement of accounts of company officers.
6. Solicitor of the war department.

3 August 1861 § 1.  
12 Stat. 287.

Assistant secret-  
ary.  
Salary.

1. That the president be and he is hereby authorized to appoint, by and with the advice and consent of the senate, an officer in the war department, to be called the assistant secretary of war, whose salary shall be three thousand dollars per annum, payable in the same manner as that of the secretary of war, who shall perform all such duties in the office of the secretary of war, belonging to that department, as shall be prescribed by the secretary of war, or as may be required by law.

22 Jan. 1862 § 1.  
12 Stat. 332.

Additional assist-  
ant secretaries.

2. That the president be and he is hereby authorized to appoint, by and with the advice and consent of the senate, two additional assistant secretaries of war, whose salary shall each be three thousand dollars per annum, who shall perform all such duties in the office of the secretary of war, belonging to that department, as shall be prescribed by the secretary of war, or as may be required by law. The offices of these additional secretaries to continue for one year.

31 Jan. 1862 § 4.  
12 Stat. 334.

Transportation  
of troops, &c., to  
be under the con-  
trol of the secre-  
tary.

3. The transportation of troops, munitions of war, equipments, military property and stores, throughout the United States, shall be under the immediate control and supervision of the secretary of war, and such agents as he may appoint; and all rules, regulations, articles, usages and laws in conflict with this provision are hereby annulled.

7 Feb. 1863 § 1.  
12 Stat. 641.

Additional clerks  
&c.

Ibid. § 2.

Settlement of ac-  
counts of compa-  
ny officers.

4. There shall be added to the clerical and other force in the office of the quartermaster-general, to be appointed by the secretary of war, four clerks of class four, and ninety clerks of class one; also thirty copyists and six laborers, at an annual compensation of six hundred dollars each.

5. In settling the accounts of the commanding officer of a company for clothing and other military supplies, the affidavit of any such officer may be received to show the loss of vouchers or company books, or any matter or circumstance tending to prove that any apparent deficiency was occasioned by unavoidable accident, or lost in actual service, without any fault on his part, or that the whole or any part of such clothing and supplies had been properly and legally used and appropriated; and such affidavit may be considered as evidence to establish the facts set forth, with or without other evidence,

as may seem to the secretary of war just and proper under the circumstances of the case. 1 February 1863.

6. That the president be and he is hereby authorized to appoint, by and with the advice and consent of the senate, an officer in the war department, to be called the solicitor of the war department, at an annual salary of twenty-five hundred dollars. 20 Feb. 1863 § 3. 12 Stat. 656. Solicitor of the war department.

## Washington Territory.

### I. DISTRICT COURT.

1. Terms of the district court.

3. Register and receiver to be appointed.

### II. LAND OFFICES.

2. Columbia River district established. Powers of the president.

### III. COLLECTION DISTRICTS.

4. Port Angelos to be the port of entry.

### I. DISTRICT COURT.

1. The district court in and for the several districts in the territory of Washington, shall be held at such times and places in said districts (not exceeding three places in each district), as the legislative assembly of said territory shall by law determine: *Provided*, That until said legislative assembly shall otherwise provide, said courts shall be held as now provided by law. 9 Feb. 1863 § 1. 12 Stat. 648. Terms of the district court.

### II. LAND OFFICES.

2. When in the opinion of the president it may be expedient, all the public lands in the territory of Washington to which the Indian title shall have been extinguished or may hereafter be extinguished, lying east and south of the following boundaries, shall constitute a new land district to be called the "Columbia River District," viz.: Beginning on the boundary line between the United States and the British possessions, and on the summit of the Cascade Mountains at the nearest range line to the east line of range twelve, thence south on the nearest range lines on the summit of said mountains to the line dividing townships ten and eleven north, thence west to the line dividing ranges six and seven west, thence north on said line to the third standard parallel, thence west to "Shoal Water Bay," thence with the Shoal Water Bay, including any islands therein, to the Pacific; the western boundary of said district above the line dividing ranges ten and eleven, and on the summit of the Cascade Mountains, to be adjusted by the department of the interior as near the points before given as is consistent with the lines of the public surveys; and the president shall be authorized hereafter from time to time, as circumstances may require, to adjust the boundaries of the land districts in said territory, and remove the offices when the same shall be expedient. 16 May 1860 § 1. 12 Stat. 16. Columbia River district established.

3. That the president be and he is hereby authorized to appoint, by and with the advice and consent of the senate, or during the recess thereof, and until the end of the next session after such appointment, a register and receiver for said district, who shall be required to reside at the site of the land office, be subject to the same laws, and entitled to the same compensation as is or may hereafter be prescribed by law in relation to the existing land office and officers in said territory. Powers of the President. Ibid. § 2. Register and receiver to be appointed.

### III. COLLECTION DISTRICTS.

4. That from and after the first day of October 1862, the port of Port Townsend, in the district of Puget Sound, in Washington territory, is hereby abolished as a port of entry; and that Port Angelos be and is hereby established as the port of entry and delivery for the said district from and after the said date. 19 June 1862 § 1. 12 Stat. 432. Port Angelos to be the port of entry.

## West Virginia.

1. Boundaries of West Virginia. Admitted into the Union.

2. On condition of the abolition of slavery.

31 Dec. 1862 § 1.  
12 Stat. 633.

Boundaries of  
West Virginia.

Admitted into  
the Union.

Ibid. § 2.

On condition of  
the abolition of  
slavery.

1. Whereas the people inhabiting that portion of Virginia known as West Virginia did, by a convention assembled in the city of Wheeling on the 26th of November 1861, frame for themselves a constitution with a view of becoming a separate and independent state; and whereas at a general election held in the counties composing the territory aforesaid on the third day of May last, the said constitution was approved and adopted by the qualified voters of the proposed state; and whereas the legislature of Virginia, by an act passed on the 13th day of May 1862, did give its consent to the formation of a new state within the jurisdiction of the said state of Virginia, to be known by the name of West Virginia, and to embrace the following named counties, to wit: Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire and Morgan; and whereas both the convention and the legislature aforesaid have requested that the new state should be admitted into the Union, and the constitution aforesaid being republican in form, congress doth hereby consent that the said forty-eight counties may be formed into a separate and independent state. Therefore, *Be it enacted*, That the state of West Virginia be and is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original states in all respects whatever, and until the next general census shall be entitled to three members in the house of representatives of the United States: *Provided always*, That this act shall not take effect until after the proclamation of the president of the United States hereinafter provided for.

2. It being represented to congress that since the convention of the 26th of November 1861, that framed and proposed the constitution for the said state of West Virginia, the people thereof have expressed a wish to change the seventh section of the eleventh article of said constitution by striking out the same and inserting the following in its place, viz.: "The children of slaves born within the limits of this state after the fourth day of July 1863, shall be free; and that all slaves within the said state who shall, at the time aforesaid, be under the age of ten years, shall be free when they arrive at the age of twenty-one years; and all slaves over ten and under twenty-one years shall be free when they arrive at the age of twenty-five years; and no slave shall be permitted to come into the state for permanent residence therein:" Therefore, *Be it further enacted*, That whenever the people of West Virginia shall, through their said convention, and by a vote to be taken at an election to be held within the limits of the said state, at such time as the convention may provide, make and ratify the change aforesaid, and properly certify the same under the hand of the president of the convention, it shall be lawful for the president of the United States to issue his proclamation stating the fact, and thereupon this act shall take effect and be in force from and after sixty days from the date of said proclamation.

## Wisconsin.

1. Terms of the circuit court.

I. CIRCUIT COURT.

2 March 1863 § 1.  
12 Stat. 699.

Terms of the cir-  
cuit court.

1. Instead of the times heretofore fixed by law, the circuit court of the United States for the district of Wisconsin (after the January term 1863) shall be held as follows: At Milwaukee on the third Monday in April and first Monday in July, and at Madison on the second Monday in November; and all writs, suits, pleas, recognisances, indictments or other proceedings, civil or criminal, issued, commenced or pending in said court, shall be returnable to, be entered and have day in court, and be heard and tried according to the provisions of this act.

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